

with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before May 5, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the

regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

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

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3297 is amended in the table in paragraph (e) by revising the entry for "2,2'-[1,2-Ethanediybis(oxy-2,1-phenyleneazo)]bis[N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)]-3-oxo-butanamide * * *," under the heading "Limitations" to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
2,2'-[1,2-Ethanediybis(oxy-2,1-phenyleneazo)]bis[N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)]-3-oxo-butanamide (C.I. Pigment Yellow 180, CAS Reg. No. 77804-81-0).	For use at levels not to exceed 1.0 percent by weight of polymers. The finished articles are to contact food only under conditions of use B through G described in Table 2 of § 176.170(c) of this chapter.

Dated: March 9, 1993.

Fred R. Shank,
Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-7768 Filed 4-2-93; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 178

[Docket No. 92F-0014]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to increase the level of safe use of 2-(2H-benzotriazol-2-yl)-4,6-bis(1-methyl-1-phenylethyl)phenol as a stabilizer in polycarbonate resins intended for contact with food. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective April 5, 1993; written objections and requests for a hearing by May 5, 1993.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of February 11, 1992 (57 FR 5005), FDA announced that a food additive petition (FAP 2B4306) had been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532-2188, proposing that § 178.2010 Antioxidants and/or stabilizers for polymers (21 CFR 178.2010) be amended to increase the level of safe use of 2-(2H-benzotriazol-2-yl)-4,6-bis(1-methyl-1-phenylethyl)phenol as a stabilizer in polycarbonate resins intended for contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use

of the food additive is safe and that the regulations in § 178.2010 should be amended as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before May 5, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include

such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

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

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry "2-(2H-benzotriazol-2-yl)-4,6-bis(1-methyl-1-phenylethyl)phenol * * *" appearing under the headings "Substances" and "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances

Limitations

2-(2H-Benzotriazol-2-yl)-4,6-bis(1-methyl-1-phenylethyl)phenol (CAS Reg. No. 70321-88-7).

For use only:

1. At levels not to exceed 0.5 percent by weight of polyethylene phthalate polymers complying with § 177.1630 of this chapter.
2. At levels not to exceed 3.0 percent by weight of polycarbonate resins complying with § 177.1580 of this chapter.

Dated: March 9, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-7835 Filed 4-2-93; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 558

[Docket No. 92P-0303]

New Animal Drugs For Use in Animal Feeds; Antibiotic, Nitrofurans, and Sulfonamide Drugs in the Feed of Animals; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations, to add PennField Oil Co. to the list of sponsors of Type A medicated articles. The agency inadvertently omitted PennField Oil Co. from the list. This action corrects that error.

EFFECTIVE DATE: April 5, 1993.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Center for Veterinary Medicine (HFV-102), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8623.

SUPPLEMENTARY INFORMATION: PennField Oil Company (POC), 14040 Industrial Rd., Omaha, NE 68137, is a manufacturer and distributor of animal health products regulated by FDA. Among its products are certain Type A medicated articles containing chlortetracycline, oxytetracycline, and oxytetracycline in combination with neomycin base. Currently, under the provisions of § 558.15 (21 CFR 558.15), POC has interim marketing privileges for those articles. However, due to an oversight, FDA failed to include POC in § 558.15 when the agency initially added the sponsors of the listed Type A medicated articles to § 558.15 (41 FR 8282, February 25, 1976). Consequently, POC filed a petition requesting that the agency correct the omission. In response to the petition, FDA reviewed the relevant files and concluded that POC's petition should be granted. Accordingly, § 558.15 (g)(1) and (g)(2) are amended by adding PennField Oil Co. to the "Drug sponsor" columns of the tables.

This action constitutes the agency's response to POC's citizen petition, Docket No. 92P-0303, filed pursuant to 21 CFR 10.30. However, this action does not constitute approval of POC's

applications for chlortetracycline or oxytetracycline.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds. Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.15 [Amended]

2. Section 558.15 *Antibiotic, nitrofurans, and sulfonamide drugs in the feed of animals* is amended in the table in paragraph (g)(1) under the heading "Type A article" for the entry "Chlortetracycline" by revising the drug sponsor name to read "American Cyanamid Co., Fermenta Animal Health Co., Feed Specialties Co., Inc., Pfizer, Inc., PennField Oil Co., and VPO, Inc." and for the entry "Oxytetracycline" by revising the drug sponsor name to read "Pfizer, Inc., PennField Oil Co., VPO,

Inc., and Purina Mills, Inc.", and in the table in paragraph (g)(2) under the heading "Type A article" for the entry "Oxytetracycline and neomycin base" by revising the drug sponsor name to read "Pfizer, Inc., PennField Oil Co., and VPO, Inc." wherever it appears.

Dated: February 12, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-7765 Filed 4-2-93; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to add a caution statement that medicated feed containing monensin is not to be fed to lactating dairy cattle. The statement is currently included on the approved label. This document is a followup to a final rule that amended the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health.

EFFECTIVE DATE: April 5, 1993.

FOR FURTHER INFORMATION CONTACT:

Warner J. Caldwell, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8638.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, is the holder of approved NADA 95-735, providing for the use of monensin in the feed of cattle and goats. As issued in the *Federal Register* of June 5, 1992 (57 FR 23953), the amended regulations in § 558.355 *Monensin* (21 CFR 558.355) inadvertently failed to include a caution statement included on the approved label that the drug is not to be fed to lactating dairy cattle. Accordingly, this document adds the required caution statement to § 558.355 by adding new paragraph (d)(7)(vi).

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to

the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.355 is amended by adding new paragraph (d)(7)(vi) to read as follows:

§ 558.355 Monensin.

* * * * *

(d) * * *

(7) * * *

(vi) Do not feed to lactating dairy cows.

* * * * *

Dated: February 23, 1993.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 93-7839 Filed 4-2-93; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8411]

RIN 1545-AH13

Definition of Resident Alien; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (T.D. 8411), which were published in the *Federal Register* for Monday, April 27, 1992 (57 FR 15237). This document contains final Income Tax Regulations relating to the definition of a resident alien. Changes to the applicable tax law were made by the Deficit Reduction Act of 1984, the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988.

EFFECTIVE DATE: April 27, 1992.

FOR FURTHER INFORMATION CONTACT:

David A. Juster, (202) 622-3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections provide guidance under sections 871, 904, 953,

1303, 1441, 3121, 3306, 6013 and 7701(b) of the Internal Revenue Code.

Need for Correction

As published, T.D. 8411 contains errors which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8411), which were the subject of FR Doc. 92-8496, is corrected as follows:

1. On page 15242, column 1, in § 301.7701(b)-0, the entries under § 301.7701(b)-2(d) are corrected to read as follows:

§ 301.7701(b)-0 Outline of regulations provisions for section 7701 (b)-1 through (b)-9.

* * * * *

§ 301.7701(b)-2 Closer connection exception.

* * * * *

(d) Closer connection to a foreign country.

(1) In general.

(2) Permanent home.

* * * * *

§ 301.7701(b)-2(d) [Corrected]

2. On page 15244, column 2, § 301.7701(b)-2(d), the paragraphs designated as paragraphs (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(6), (d)(7), (d)(8), (d)(9), and (d)(10) are correctly designated as paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), (d)(1)(iv), (d)(1)(v), (d)(1)(vi), (d)(1)(vii), (d)(1)(viii), (d)(1)(ix), (d)(1)(x), respectively.

3. On page 15244, column 2, § 301.7701(b)-2(d), line 2, the text following the paragraph heading is correctly designated as paragraph (d)(1) introductory text and a paragraph heading is added to read as follows:

"Country—(1) In general. For purposes of section 7701(b)".

4. On page 15244, column 2, § 301.7701(b)-2(d), the undesignated paragraph preceding paragraph (e) is correctly designated as paragraph (d)(2), and the first two lines are corrected to read "(2) Permanent home. For purposes of paragraph (d)(1)(i) of this section, it is immaterial whether a permanent".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93-7762 Filed 4-2-93; 8:45 am]

BILLING CODE 4830-01-U

26 CFR Part 301

[T.D. 8469]

RIN 1545-AM64

Time and Place of Examination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that describe the criteria to be utilized by Internal Revenue Service employees in setting a time and place of examination. The general approach is to schedule a time and place that is reasonable under the circumstances. The Service is issuing these regulations pursuant to section 6228(b) of the Technical and Miscellaneous Revenue Act of 1988.

EFFECTIVE DATE: These regulations are effective on April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Kevin B. Connelly, 202-622-3620 (not a toll-free call).

SUPPLEMENTARY INFORMATION:**Background**

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 7605 of the Internal Revenue Code (Code). Section 7605(a) of the Code states that the time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be such time and place as may be fixed by the Secretary and as are reasonable under the circumstances. Section 6228(b) of Technical and Miscellaneous Revenue Act of 1988 (TAMRA) directs that regulations under section 7605 governing the time and place for examinations be revised.

The Service published temporary regulations and a notice of proposed rulemaking by cross-reference to the temporary regulations in the *Federal Register* on April 3, 1990 (55 FR 12344, 12386). A nonsubstantive correction was published on May 30, 1990 (55 FR 21862, 21886). Prior to the issuance of the temporary regulations, the regulations under section 7605 of the Code provided, in general terms that the time and place for examination are to be fixed by an employee of the Service and are to be reasonable under the circumstances.

The temporary regulations, and now the final regulations, provide more specific guidance. In keeping with both the spirit of TAMRA and the policy of the Service, it is the goal of these regulations that the Service employee

setting the time and place for examination will maximize the convenience of the taxpayer within the constraints of sound and efficient tax administration.

Explanation of Provisions

The regulations provide general guidance regarding the time and place of examination in paragraph (a). Subsequent paragraphs provide more specific guidance as to the time of examination, the type of examination, the place of examination, taxpayer requests to change the place of examination, and transfers of examinations initiated by the Service. The Service received public comments concerning the temporary regulations from nine parties. Although all of the issues raised by these parties had been considered prior to the publication of the notice of proposed rulemaking, these issues were given further consideration and are discussed below. Several changes have been made to the final regulations in response to these comments. A number of stylistic and clarifying changes also have been made.

General Guidance

The temporary regulations provide that the time and place of examination is to be determined by an Internal Revenue Service employee, and that in scheduling examinations, employees are to endeavor to be reasonable.

The temporary regulations provide that standards set forth in the temporary regulations dealing with the reasonableness of time and place of examination do not apply to criminal investigations. In addition, the temporary regulations provide that the regulatory standards would be used as guidelines for international examinations, but that in the case of a conflict between the regulations and the policies and procedures of the Office of the Assistant Commissioner (International), the policies and procedures would apply. However, the basic concept underlying the regulations, a district, has no significance, for example, to an audit in a foreign country. Accordingly, the final regulations generally except international examinations from the regulations. The Service solicits comments as to whether regulations should be promulgated regarding the time and place of examinations that fall under the jurisdiction of the Office of the Assistant Commissioner (International).

Two commentators objected to the unilateral authority granted to the Service's employee assigned to the case and suggested that an appeals procedure

be established for taxpayers who do not agree that the time and place is reasonable. The final regulations do not adopt this suggestion. A taxpayer who believes a Service employee is not properly applying these regulations has the right to appeal to that person's supervisor. Thus, a formal appeals procedure would add a layer of bureaucracy to the examination process while providing little or no benefit to taxpayers.

Time of Examination

The temporary regulations provide that it is reasonable for the Service to schedule an examination during the Service's normal business hours, and that it is reasonable to schedule an examination without regard to seasonal fluctuations in the business of the taxpayer or the taxpayer's representative. The temporary regulations further provide that the Service will try to minimize scheduling problems for taxpayers and their representatives.

One commentator suggested that the regulations call for examinations to take place during the taxpayer's normal business hours, rather than the Service's. Another commentator suggested that the Service should schedule evening or weekend examinations for taxpayers who find the Service's normal business hours to be disruptive. In addition, two commentators suggested that seasonal fluctuations in the taxpayer's or representative's business should be taken into account. Finally, one commentator suggested the Service consider rescheduling an examination if a taxpayer is unable to attend because of a religious or secular holiday.

These alternatives were considered in drafting the temporary regulations. In many cases it will be possible for examinations to be scheduled to at least partially accommodate a taxpayer's schedule. However, in other cases it is administratively impracticable for the Service to accommodate a taxpayer's schedule. For example, many Service offices are very small and do not have staff available to conduct examinations at times other than normal business hours. Therefore, since the regulations provide that the Service will attempt to minimize scheduling problems for taxpayers and their representatives, the regulations were not revised. It is expected that the Service normally will accommodate taxpayers in the case of religious or secular holidays.

Type of Examination

The temporary regulations provide that the Service will determine whether

an examination will be an office examination or a field examination based upon the complexity of the return and which form of examination will be more conducive to effective and efficient tax administration. An exception is provided for cases of clear need, such as when the taxpayer's advanced age or infirm physical condition make it unreasonably difficult to travel to a Service office, or when the taxpayer's books, records, and source documents are too cumbersome for the taxpayer to bring to a Service office.

Place of Examination

The temporary regulations provide that the Service's initial determination of where an examination will take place generally will be based upon the address shown on the tax return selected for examination. The temporary regulations provide that office examinations of individuals (including sole proprietorships) generally are to be conducted at the Service office within the taxpayer's district that is closest to the taxpayer's residence. Because the Service sometimes conducts office examinations of estates, trusts, and other entities, the final regulations also provide that office examinations of entities generally are to be conducted at the Service office closest to where the original books, records and source documents of the entity are maintained. As in the temporary regulations, the final regulations provide for a different office to be used for examinations if the closest Service office does not have an examination group or the personnel needed to conduct the examination.

Another commentator suggested limits on the time and distance a taxpayer should be required to travel to an alternative office selected by the Service. To accommodate these concerns, the final regulations provide that in appropriate circumstances the Service will take into account the distance a taxpayer would have to travel to a Service office. (Due to different population densities in different geographic areas, it is not practical to limit travel to a specific distance.) Moreover, consistent with current Service practice, this applies not only to alternative offices (as requested by the commentator) but also in determining whether it is reasonable to require a taxpayer to travel to the office closest to the taxpayer's residence. Thus, for example, the Service may establish temporary satellite locations closer to taxpayers' residences rather than require taxpayers to travel a long distance to what would otherwise be the Service office closest to their residences.

With regard to field examinations, the regulations provide for the examination to generally take place at the location where the original books, records, and source documents pertinent to the examination are maintained. The regulations also provide that if a business is so small that a field examination would essentially require the taxpayer to close the business or would unduly disrupt business operations, the Service generally will agree to conduct an office examination (instead of a field examination) at a Service office within the district where the original books, records, and source documents are maintained.

Taxpayer Requests To Change Place of Examination

The temporary regulations provide that taxpayers may make written requests to the Service to change the place of examination. The Service is to consider requests on a case-by-case basis, taking into account the following factors: The location of the taxpayer's current residence or principal place of business; the location where the taxpayer's books, records, and source documents are maintained; the location where the Service can perform the examination most efficiently; the resources available at the location to which the taxpayer has requested a transfer; and other factors indicating that conducting the examination at a particular location could pose undue inconvenience to the taxpayer. The regulations also provide that the business location of the taxpayer's representative generally will not be considered in determining the place for an examination. In addition, the regulations provide that as a condition to transferring an examination of a taxpayer for which the applicable statute of limitations will expire within thirteen months, the Service may require the taxpayer to extend the limitations period.

Several commentators asserted that the location of the taxpayer's representative's office should be one of the factors considered by the Service, if not the controlling factor. Several reasons were given for conducting examinations at a taxpayer representative's office, including protecting the taxpayer's right to representation, cost savings to the taxpayer, and comfort, efficiency and convenience for the Service employee.

Nothing in the regulations precludes an office or field examination from being conducted on the business premises of the taxpayer's representative on the basis of the other factors described in the regulations.

Under those factors, the Service is likely to conduct examinations at the office of a taxpayer's representative, for example, if the representative maintains the taxpayer's books, records, and source documents at his or her office, or if there are other reasons why that office is the location where the Service can perform the examination most efficiently. However, if the business location of the taxpayer's representative were a separate factor, the Service might well be required to conduct examinations at distant locations of nonlocal representatives. This could adversely affect the Service's ability to freely examine the taxpayer's books and records, and would be likely to increase the cost of those examinations. It would be unfair for the Service—and ultimately the general taxpaying public—to bear those increased costs. Given that qualified local representatives are generally available to taxpayers, it seems unlikely that causing a taxpayer to bear the cost of its choice of nonlocal representation will significantly affect the taxpayer's ability to be properly represented in an examination. Therefore, no change was made to the regulations regarding the consideration of the location of the taxpayer's representative as a separate factor.

One commentator objected that for purposes of requiring a taxpayer to extend the applicable statute of limitations as a precondition to a transfer, the thirteen month period is too long. The Service's administrative practices require this thirteen month period to be retained. However, to provide additional protection to taxpayers, the regulations have been revised to limit to one year the period for which the Service may require the taxpayer to extend the statute of limitations.

Transfers Initiated by the Service

The temporary regulations make it clear that the Service may initiate a transfer of an examination to further the effectiveness and efficiency of the examination.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of

the Internal Revenue Code, the notice of proposed rulemaking for these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Nancy O. Ryan of the Office of the Assistant Chief Counsel (General Litigation), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

Paragraph 1. The authority citation for part 301 is amended in part by removing the citation for Section 301.7605-1T and adding in its place a new citation for Section 301.7605-1 to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 301.7605-1 also issued under section 6228(b) of the Technical and Miscellaneous Revenue Act of 1988; * * *

Par. 2. Section 301.7605-1 is amended by:

1. Adding paragraph (a);
2. Redesignating paragraphs (b) and (c) as paragraphs (h) and (i), respectively;
3. Adding paragraphs (b) through (g);
4. Adding paragraph (j);
5. The additions and revisions read as follows:

§ 301.7605-1 Time and place of examination.

(a) *Time and place of examination to be reasonable—(1) In general.* The time and place of examination pursuant to the provisions of sections 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 of the Internal Revenue Code are to be fixed by an officer or employee of the Internal Revenue Service, and officers and employees are to endeavor to schedule a time and place that are reasonable under the circumstances. This section sets forth general criteria for the Service to apply in determining whether a particular time and place for an

examination are reasonable under the circumstances. Officers and employees should exercise sound judgment in applying these criteria to the circumstances at hand and should balance convenience of the taxpayer with the requirements of sound and efficient tax administration.

(2) *International examinations.* Except for the provisions of paragraph (b)(2) of this section, this section does not apply to examinations that fall under the jurisdiction of the Office of the Assistant Commissioner (International).

(3) *Criminal investigations.* Except for the provisions of paragraph (b)(2) of this section, this section does not apply to criminal investigations.

(b) *Time of examination—(1) Date and time of examination.* It is reasonable for the Service to schedule the day (or days) for an examination during a normally scheduled workday (or workdays) of the Service, during the Service's normal business hours. It is reasonable for the Service to schedule examinations throughout the year, without regard to seasonal fluctuations in the businesses of particular taxpayers or their representatives. However, the Service will work with taxpayers or their representatives to try to minimize any adverse effects in scheduling the date and time of an examination.

(2) *Date of appearance when summons is used.* If a summons is issued under authority of section 7602(a)(2) of the Internal Revenue Code, or under the corresponding authority of sections 6420(e)(2), 6421(g)(2), or 6427(j)(2), the date fixed for appearance before an officer or employee of the Service must be no less than 10 days from the date of the summons.

(c) *Type of examination—(1) In general.* The Service will determine whether an examination will be an office examination (i.e., an examination conducted at a Service office) or a field examination (i.e., an examination conducted at the taxpayer's residence or place of business, or some other location that is not a Service office), based upon the complexity of the return and which form of examination will be more conducive to effective and efficient tax administration.

(2) *Office examination held in location other than Service office in case of clear need.* The Service will grant a request to hold an office examination at a location other than a Service office in a case of clear need, such as when it would be unreasonably difficult for the taxpayer to travel to a Service office because of the taxpayer's advanced age or infirm physical condition, or when the taxpayer's books,

records, and source documents are too cumbersome for the taxpayer to bring to a Service office.

(d) *Place of examination—(1) In general.* The Service generally will make an initial determination of the place for an examination, including the Internal Revenue Service district to which an examination will be assigned, based upon the address shown on the return for the period selected for examination. Requests by taxpayers to transfer the place of examination will be resolved on a case-by-case basis, using the criteria set forth in paragraph (e) of this section.

(2) *Office examinations—(i) In general.* An office examination of an individual or sole proprietorship generally is based on the residence of the individual taxpayer. An office examination of a taxpayer that is an entity generally is based on the location where the taxpayer entity's original books, records, and source documents are maintained. An office examination generally will take place at the closest Service office within the district encompassing the taxpayer's residence or at the closest Service office within the district where the taxpayer entity's books, records, and source documents are maintained. It generally is not reasonable for the Service to require a taxpayer to attend an examination at an office within an assigned district other than the closest Service office.

(ii) *Exception.* If the office within the assigned district closest to an individual taxpayer's residence or the location where a taxpayer entity's books, records and source documents are maintained does not have an examination group or the appropriate personnel to conduct the examination, it generally is reasonable for the Service to require the taxpayer to attend an examination at the closest Service office within the assigned district that has an examination group or the appropriate personnel.

(iii) *Travel considerations.* In scheduling office examinations, the Service in appropriate circumstances will take into account the distance a taxpayer would have to travel.

(3) *Field examinations—(i) In general.* A field examination will generally take place at the location where the taxpayer's original books, records, and source documents pertinent to the examination are maintained. In the case of a sole proprietorship or taxpayer entity, this will usually be the taxpayer's principal place of business.

(ii) *Exception for certain small businesses.* If an examination is scheduled by the Service at the taxpayer's place of business and the

taxpayer represents to the Service in writing that conducting the examination at the place of business would essentially require the business to close or would unduly disrupt business operations, the Service, upon verification, will change the place of examination to a Service office within the district where the taxpayer's books, records, and source documents are maintained.

(iii) *Site visitations.* Regardless of where an examination takes place, the Service may visit the taxpayer's place of business or residence to establish facts that can only be established by direct visit, such as inventory or asset verification. The Service generally will visit for these purposes on a normal workday of the Service during the Service's normal duty hours.

(e) *Requests by taxpayers to change place of examination.*—(1) *In general.* The Service will consider, on a case-by-case basis, written requests by taxpayers or their representatives to change the place that the Service has set for an examination. In considering these requests, the Service will take into account the following factors—

- (i) The location of the taxpayer's current residence;
- (ii) The location of the taxpayer's current principal place of business;
- (iii) The location at which the taxpayer's books, records, and source documents are maintained;
- (iv) The location at which the Service can perform the examination most efficiently;

(v) The Service resources available at the location to which the taxpayer has requested a transfer; and

(vi) Other factors that indicate that conducting the examination at a particular location could pose undue inconvenience to the taxpayer.

(2) *Circumstances in which the Service normally will permit transfers.* A request by a taxpayer to transfer the place of examination will generally be granted under the following circumstances:

(i) *Office examination.*—(A) If the current residence of the taxpayer, in the case of an individual or sole proprietorship, or the location where the taxpayer's books, records, and source documents are maintained, in the case of a taxpayer entity, is closer to a different Service office in the same district as the office where the examination has been scheduled, the Service normally will agree to transfer the examination to the closer Service office.

(B) If the current residence of a taxpayer, in the case of an individual or sole proprietorship, or the location

where a taxpayer entity's books, records, and source documents are maintained, is in a district other than the district where the examination has been scheduled, the Service normally will agree to transfer the examination to the closest Service office in the other district.

(ii) *Field examinations.*—(A) If a taxpayer does not reside at the residence where an examination has been scheduled, the Service will agree to transfer the examination to the taxpayer's current residence.

(B) If, in the case of an individual, a sole proprietorship, or a taxpayer entity, the taxpayer's books, records, and source documents are maintained at a location other than the location where the examination has been scheduled, the Service will agree to transfer the examination to the location where the taxpayer's books, records, and source documents are maintained.

(3) *Transfer for convenience of taxpayer's representative.* The location of the place of business of a taxpayer's representative will generally not be considered in determining the place for an examination. However, the Service in its sole discretion may determine, based on the factors described in paragraph (e)(1) of this section, to transfer the place of examination to the representative's office.

(4) *Transfer within thirteen months of expiration of limitations period.* If any applicable period of limitations on assessment or collection provided in the Internal Revenue Code will expire within thirteen months from the date of a taxpayer's request to transfer the place of an examination, the Service may require, as a condition for an otherwise permissible transfer, that the taxpayer first agree in writing to extend the limitations period for up to one year.

(5) *Transfer to office with insufficient resources.* The Service is not required to transfer an examination to an office or district that does not have adequate resources to conduct the examination.

(f) *Safety of Service officers and employees.* Notwithstanding any other provision of this regulation, officers and employees of the Service may decline to conduct an examination at a particular location if it appears that the possibility of physical danger may exist at that location. In these circumstances, the Service may transfer an examination to a Service office and take any other steps necessary to protect its officers and employees.

(g) *Transfers initiated by Service.* Nothing in this section shall be interpreted as precluding the Service from initiating the transfer of an examination if the transfer would

promote the effective and efficient conduct of the examination. Should a taxpayer request that such a transfer not be made, the Service will consider the request according to the principles and criteria set forth in paragraph (e) of this section.

(j) *Effective date.* Paragraphs (a) through (g) of this section, inclusive, are effective for examinations scheduled after April 2, 1993.

§ 301.7605-1T [REMOVED]

Par. 3 Section 301.7605-1T is removed.

Michael P. Dolan,
Acting Commissioner of Internal Revenue.

Approved: March 16, 1993.

James Fields,
Assistant Secretary of the Treasury.
[FR Doc. 93-7606 Filed 4-2-93; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 35

[Order No. 1694-93]

Nondiscrimination on the Basis of Disability in State and Local Government Services

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This document contains technical amendments to the Department of Justice regulations on nondiscrimination on the basis of disability in state and local government services, which implements title II of the Americans with Disabilities Act. This final rule makes some technical corrections to the regulations and amends the regulations to reference an Office and Management and Budget control number in compliance with the Paperwork Reduction Act of 1980, as amended.

EFFECTIVE DATE: April 5, 1993.

FOR FURTHER INFORMATION CONTACT: Stewart B. Oneglia, Chief, Coordination and Review Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66118, Washington DC 20035-6118, or at (202) 514-0301 (Voice) or (202) 514-0383 (TDD) (the Divisions' ADA Information Line). These telephone numbers are not toll-free numbers.

Copies of this rule are available in the following alternate formats: Large print, Braille, electronic file on computer disk, and audio-tape. Copies may be obtained

by calling (202) 514-0301 (Voice) or (202) 514-0383 (TDD). The rule is also available on electronic bulletin board at (202) 514-6193. These telephone numbers are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 1991 (56 FR 35694), the Department of Justice published its final regulation implementing title II of the Americans with Disabilities Act (ADA), Public Law 101-336, which prohibits discrimination against qualified individuals with disabilities by state and local governmental entities. As published, the title II regulation contained errors, which are corrected by this rule. In addition, to comply with the requirements of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 35), the Department has obtained control numbers from the Office of Management and Budget for the information collection requirements contained in §§ 35.105 and 35.150 of the title II regulation. This rule amends the regulation to include references to the control numbers applicable to each section.

List of Subjects in 28 CFR Part 35

Administrative practice and procedure, Alcoholism, Americans with disabilities, Buildings and facilities, Civil rights, Drug abuse, Historic preservation, Intergovernmental relations, Reporting and recordkeeping requirements.

By the authority vested in me as Attorney General by 28 U.S.C. 509, 510, 5 U.S.C. 301, and section 306(b) of the Americans With Disabilities Act, Public Law 101-336, chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 35—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

1. The authority citation for 28 CFR part 35 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; Public Law 101-336 (42 U.S.C. 12186).

2. Section 35.105 is amended by adding a parenthetical containing the Office of Management and Budget control number at the end of the section, to read as follows:

§ 35.105 Self-evaluation.

(Approved by the Office of Management and Budget under control number 1190-0006)

§ 35.133 [Amended]

3. Section 35.133(a) is amended by revising the word "accommodation" to read "entity".

4. Section 35.150 is amended by adding a parenthetical containing the Office of Management and Budget control number at the end of the section, to read as follows:

§ 35.150 Existing facilities.

(Approved by the Office of Management and Budget under control number 1190-0004)

§ 35.151 [Amended]

5. Section 35.151(c) is amended in the first sentence by revising the reference "4.1.6(1)(j)" to read "4.1.6(1)(k)".

Dated: January 21, 1993.

Stuart M. Gerson,

Acting Attorney General.

[FR Doc. 93-7191 Filed 4-2-93; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 36

[Order No. 1679-93]

Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities; Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities

AGENCY: Department of Justice.

ACTION: Final rule; technical amendment.

SUMMARY: This document contains technical amendments to the regulations on nondiscrimination on the basis of disability by public accommodations and in commercial facilities, which implement title III of the Americans with Disabilities Act (ADA) and to appendix A to those regulations. This final rule makes some technical corrections to the regulations and amends the regulations to reference an Office and Management and Budget control number in compliance with the Paperwork Reduction Act of 1980, as amended.

EFFECTIVE DATE: April 5, 1993.

FOR FURTHER INFORMATION CONTACT: Stewart B. Oneglia, Chief, Coordination and Review Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66118, Washington, DC 20035-6118, or at (202) 514-0301 (Voice) or (202) 514-0383 (TDD) (the Divisions' ADA Information Line). These telephone numbers are not toll-free numbers.

Copies of this rule are available in the following alternate formats: Large print,

Braille, electronic file on computer disk, and audio-tape. Copies may be obtained by calling (202) 514-0301 (Voice) or (202) 514-0383 (TDD). The rule is also available on electronic bulletin board at (202) 514-6193. These telephone numbers are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

On July 26, 1991 (56 FR 35544), the Department of Justice published final regulations implementing title III of the ADA, Public Law 101-336 (42 U.S.C. 12181-12189), which prohibits discrimination on the basis of disability by private entities in places of public accommodation and requires that all new places of public accommodation and commercial facilities and all alterations to such facilities be designed and constructed so as to be readily accessible to and usable by persons with disabilities. As published, the regulations contained errors, which are corrected by this rule. No notice or public procedure is necessary for the issuance of the technical amendments and corrections made by this rule. 5 U.S.C. 553(b)(B).

Section 36.406 of the regulations, "Standards for new construction and alterations," provides that new construction and alterations subject to this part shall comply with the standards for accessible design published as appendix A to the regulations. Appendix A contains the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) published by the Architectural and Transportation Barriers Compliance Board (Access Board) as a final rule on July 16, 1991 (56 FR 35408). As published, the guidelines contained errors which were corrected by the Access Board on January 14, 1992 (57 FR 1993). This document makes those same corrections to appendix A to the Department of Justice's regulation.

To comply with the requirements of the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. 3507(f), the Department has obtained a control number from the Office of Management and Budget for the information collection requirements contained in § 36.603 of the regulations. This notice also amends § 36.603 to reference the control number applicable to that section.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of Executive Order No. 12291, and has no

implications for federalism requiring a federalism assessment under section 6 of Executive Order No. 12612.

List of Subjects in 28 CFR Part 36

Administrative practice and procedure, Alcoholism, Americans with disabilities, Buildings and facilities, Business and industry, Civil rights, Consumer protection, Drug abuse, Historic preservation, Reporting and recordkeeping requirements.

Dated: January 28, 1993.

Stuart M. Gerson,
Acting Attorney General.

By the authority vested in me as Attorney General by 28 U.S.C. 509, 510, 5 U.S.C. 301, and section 306(b) of the Americans with Disabilities Act, and for the reasons set forth in the preamble, part 36 of chapter I of title 28 of the

Code of Federal Regulations is amended as follows:

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES

1. The authority citation for 28 CFR part 36 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; sec. 306(b), Public Law 101-336, 104 Stat. 361, 362 (42 U.S.C. 12186).

2. Section 36.603 is amended by adding a parenthetical containing the Office of Management and Budget control number at the end of the section, to read as follows:

§ 36.603 Filing request for certification.

* * * * *

(Approved by the Office of Management and Budget under control number 1190-0005)

3. Appendix A to part 36 is amended as follows:

a. The appendix is amended by adding in the first sentence of section 4.30.4 the words "(0.8 mm) minimum" after "1/32 in".

b. The appendix is amended in the third entry in the first column of the table in paragraph (1) of section 7.3 by revising "8-15" to read "9-15".

Pages 53 and 62 of appendix A to part 36 are republished with the amendments included to read as follows:

Appendix A to Part 36—Standards for Accessible Design

* * * * *

BILLING CODE 4410-01-M

4.29 Detectable Warnings

4.29 Detectable Warnings.

4.29.1 General. Detectable warnings required by 4.1 and 4.7 shall comply with 4.29.

4.29.2* Detectable Warnings on Walking Surfaces. Detectable warnings shall consist of raised truncated domes with a diameter of nominal 0.9 in (23 mm), a height of nominal 0.2 in (5 mm) and a center-to-center spacing of nominal 2.35 in (60 mm) and shall contrast visually with adjoining surfaces, either light-on-dark, or dark-on-light.

The material used to provide contrast shall be an integral part of the walking surface. Detectable warnings used on interior surfaces shall differ from adjoining walking surfaces in resiliency or sound-on-cane contact.

4.29.3 Detectable Warnings on Doors To Hazardous Areas. (Reserved).

4.29.4 Detectable Warnings at Stairs. (Reserved).

4.29.5 Detectable Warnings at Hazardous Vehicular Areas. If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings, or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by a continuous detectable warning which is 36 in (915 mm) wide, complying with 4.29.2.

4.29.6 Detectable Warnings at Reflecting Pools. The edges of reflecting pools shall be protected by railings, walls, curbs, or detectable warnings complying with 4.29.2.

4.29.7 Standardization. (Reserved).

4.30 Signage.

4.30.1* General. Signage required to be accessible by 4.1 shall comply with the applicable provisions of 4.30.

4.30.2* Character Proportion. Letters and numbers on signs shall have a width-to-height ratio between 3:5 and 1:1 and a stroke-width-to-height ratio between 1:5 and 1:10.

4.30.3 Character Height. Characters and numbers on signs shall be sized according to the viewing distance from which they are to be read. The minimum height is measured using an upper case X. Lower case characters are permitted.

Height Above Finished Floor	Minimum Character Height
Suspended or Projected Overhead in compliance with 4.4.2	3 in. (75 mm) minimum

4.30.4* Raised and Brailled Characters and Pictorial Symbol Signs

(Pictograms). Letters and numerals shall be raised 1/32 in (0.8 mm) minimum, upper case, sans serif or simple serif type and shall be accompanied with Grade 2 Braille. Raised characters shall be at least 5/8 in (16 mm) high, but no higher than 2 in (50 mm). Pictograms shall be accompanied by the equivalent verbal description placed directly below the pictogram. The border dimension of the pictogram shall be 6 in (152 mm) minimum in height.

4.30.5* Finish and Contrast. The characters and background of signs shall be eggshell, matte, or other non-glare finish. Characters and symbols shall contrast with their background — either light characters on a dark background or dark characters on a light background.

4.30.6 Mounting Location and Height. Where permanent identification is provided for rooms and spaces, signs shall be installed on the wall adjacent to the latch side of the door. Where there is no wall space to the latch side of the door, including at double leaf doors, signs shall be placed on the nearest adjacent wall. Mounting height shall be 60 in (1525 mm) above the finish floor to the centerline of the sign. Mounting location for such signage shall be so that a person may approach within 3 in (76 mm) of signage without encountering protruding objects or standing within the swing of a door.

4.30.7* Symbols of Accessibility.

(1) Facilities and elements required to be identified as accessible by 4.1 shall use the international symbol of accessibility. The

8.0 Libraries

7.3* Check-out Aisles.

(1) In new construction, accessible check-out aisles shall be provided in conformance with the table below:

Total Check-out Aisles of Each Design	Minimum Number of Accessible Check-out Aisles (of each design)
1 - 4	1
5 - 8	2
9 - 15	3
over 15	3, plus 20% of additional aisles

EXCEPTION: In new construction, where the selling space is under 5000 square feet, only one check-out aisle is required to be accessible.

EXCEPTION: In alterations, at least one check-out aisle shall be accessible in facilities under 5000 square feet of selling space. In facilities of 5000 or more square feet of selling space, at least one of each design of check-out aisle shall be made accessible when altered until the number of accessible check-out aisles of each design equals the number required in new construction.

Examples of check-out aisles of different "design" include those which are specifically designed to serve different functions. Different "design" includes but is not limited to the following features - length of belt or no belt, or permanent signage designating the aisle as an express lane.

(2) Clear aisle width for accessible check-out aisles shall comply with 4.2.1 and maximum adjoining counter height shall not exceed 38 in (965 mm) above the finish floor. The top of the lip shall not exceed 40 in (1015 mm) above the finish floor.

(3) Signage identifying accessible check-out aisles shall comply with 4.30.7 and shall be mounted above the check-out aisle in the same location where the check-out number or type of check-out is displayed.

7.4 Security Bollards. Any device used to prevent the removal of shopping carts from store premises shall not prevent access or egress to people in wheelchairs. An alternate

entry that is equally convenient to that provided for the ambulatory population is acceptable.

8. LIBRARIES.

8.1 General. In addition to the requirements of 4.1 to 4.35, the design of all public areas of a library shall comply with 8, including reading and study areas, stacks, reference rooms, reserve areas, and special facilities or collections.

8.2 Reading and Study Areas. At least 5 percent or a minimum of one of each element of fixed seating, tables, or study carrels shall comply with 4.2 and 4.32. Clearances between fixed accessible tables and between study carrels shall comply with 4.3.

8.3 Check-Out Areas. At least one lane at each check-out area shall comply with 7.2(1). Any traffic control or book security gates or turnstiles shall comply with 4.13.

8.4 Card Catalogs and Magazine Displays. Minimum clear aisle space at card catalogs and magazine displays shall comply with Fig. 55. Maximum reach height shall comply with 4.2, with a height of 48 in (1220 mm) preferred irrespective of approach allowed.

8.5 Stacks. Minimum clear aisle width between stacks shall comply with 4.3, with a minimum clear aisle width of 42 in (1065 mm) preferred where possible. Shelf height in stack areas is unrestricted (see Fig. 56).

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-93-13]

Special Local Regulations for Marine Events; Chesapeake Bay Offshore Challenge; Chesapeake Bay, Ocean View, Norfolk, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Chesapeake Bay Offshore Challenge to be held on May 22, 1993, on the Chesapeake Bay off Ocean View, Norfolk, Virginia. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations are effective from 9 a.m. to 5 p.m., May 22, 1993. If inclement weather causes the postponement of the event, the regulations are effective from 9 a.m. to 5 p.m., May 23, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-8204, or Commander, Coast Guard Group Hampton Roads (Operations) (804) 483-8559.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, the sponsor's application to hold the event was not received at the district office until March 16, 1993, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and LCDR Keith B. Letourneau, project attorney, Fifth Coast Guard District Legal Staff.

Background and Purpose

Offshore Productions Unlimited submitted an application to hold the Chesapeake Bay Offshore Challenge. The race will consist of approximately

50 powerboats, from 20 to 45 feet in length racing over a closed course off the Ocean View beachfront. As part of the application, Offshore Productions Unlimited requested that the Coast Guard provide control of spectator and commercial traffic along the beachfront and within the regulated area.

Discussion of Regulations

These regulations will regulate the area surrounding the Chesapeake Bay Offshore Challenge. The race course runs along the beachfront from East Ocean View to just east of Willoughby Beach, south of Thimble Shoals Channel, and east of the entrance to Little Creek. These regulations are necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event. Since Thimble Shoals Channel, and the approach to Little Creek Harbor will not be closed, commercial traffic should not be severely disrupted.

Regulatory Evaluation

This final rule is not considered major under Executive Order 12291 and not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 28, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for eight hours, and the effect on routine navigation is expected to be minimal since Little Creek Harbor and Thimble Shoals Channel will not be closed during the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small Entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this rule on non-participating small entities will be minimal, the Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not raise sufficient

federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

This final rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

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

PART 100—[AMENDED]

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. A temporary § 100.35—T0513 is added to read as follows:

§ 100.35—T0513 Chesapeake Bay, Ocean View, Norfolk, Virginia.

(a) *Definitions:* (1) *Regulated area.* The waters of the Chesapeake Bay commencing at a point on the shoreline at latitude 36°58'09.0" North, longitude 76°17'20.0" West; thence north to latitude 36°59'49" North, longitude 76°17'20" West; thence east southeast to latitude 36°59'01" North, longitude 76°10'38" West; thence south southwest to the shoreline at latitude 36°55'52" North, longitude 76°11'21" West.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

(3) *Spectator Anchorage Area.* The waters in the Chesapeake Bay off Ocean View bounded by a line connecting the following five points: (1) Latitude 36°59'35.0" N, Longitude 76°15'15.0" W; (2) Latitude 36°59'54.0" N, Longitude 76°15'14.0" W; (3) Latitude 36°59'55.0" N, Longitude 76°14'32.0" W; (4) Latitude 36°59'42.0" N, Longitude 76°13'38.0" W; (5) Latitude 36°59'23.0" N, Longitude 76°13'39.0" W.

(b) *Special Local Regulations.* (1) Except for participants in the Chesapeake Bay Offshore Challenge and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated

area without the permission of the Patrol Commander.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Spectator vessels may anchor in the spectator anchorage area specified in paragraph (a)(3) of these regulations.

(4) The Coast Guard Patrol Commander may allow vessels to transit the regulated area whenever a race or practice heat is not being run.

(5) Vessel operators are advised to remain clear of the regulated area during the effective periods of this regulation.

(c) *Effective periods:* The regulations are effective from 9 a.m. to 5 p.m., May 22, 1993. If inclement weather causes the postponement of the event, the regulations are effective from 9 a.m. to 5 p.m., May 23, 1993.

Dated: March 25, 1993.

W.T. Leland,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 93-7871 Filed 4-2-93; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 162

[CGD93-01]

Temporary Amendment to Inland Waterways Navigation Regulations Establishing Speed Limits on Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander, Ninth Coast Guard District, is making a temporary amendment to the inland waterways navigation regulations at 33 CFR 162.138 establishing speed limits on connecting waters from Lake Huron to Lake Erie in order to allow nondisplacement power vessels less than 100 gross tons to exceed the normal speed limits, when approval for each transit is granted by the Coast Guard Captain of the Port, during the 1993 season. This temporary amendment is necessary to prevent an undue restriction on commerce, but will only be invoked by the Coast Guard Captain of the Port when he determines that no undue risk to safety will result. **EFFECTIVE DATES:** These regulations become effective on April 1, 1993, and terminate on November 30, 1993.

FOR FURTHER INFORMATION CONTACT:

Captain Dennis W. Cleaveland, U.S. Coast Guard, Chief of the Ninth Coast Guard District Marine Port & Environmental Safety Branch, room 2069, 1240 East Ninth Street, Cleveland, Ohio, 44199-2060, (216) 522-3994.

SUPPLEMENTARY INFORMATION: On January 13, 1993, the Coast Guard published a notice of proposed rulemaking in the *Federal Register* for these regulations (58 FR 4130). Interested persons were requested to submit comments by March 1, 1993. No comments were received. The Commander of the Ninth Coast Guard District has decided to promulgate the final rule as proposed, for the reasons previously given in the notice of proposed rulemaking.

Drafting Information

The drafters of these regulations are Captain Dennis W. Cleaveland, U.S. Coast Guard, project officer, Ninth Coast Guard District Marine Port & Environmental Safety Branch, and Commander M. Eric Reeves, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This amendment does not impose any new regulatory requirements in an area not heretofore regulated by the Federal Government, and does not impose any requirements or restrictions on State or local authorities.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation.

Economic Assessment and Certification

These regulations are 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 of February 26, 1979). The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. In fact, the Coast Guard is making this amendment in part in order to avoid causing the existing regulations to have an unintended economic impact

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

Collection of Information

These regulations will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 162

Marine Safety, Navigation (water).

Regulations

In consideration of the foregoing, part 162 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. A temporary section 162.T139 is added as follows:

§ 162.T139 Nondisplacement Vessels under 100 Gross Tons.

(a) Notwithstanding § 162.134 and 162.138(a), nondisplacement vessels 20 meters or more in length but under 100 gross tons may operate in the nondisplacement mode at speeds not more than 40 miles per hour, and may overtake other vessels, when conditions otherwise safely allow and approval is granted by the Coast Guard Captain of the Port or District Commander prior to each transit of the area. Except for provisions on overtaking other vessels, the provisions in § 162.134 continue to apply.

(b) This section becomes effective on April 1, 1993 and terminates on November 30, 1993.

Dated: March 16, 1993.

G.A. Penington,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

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BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Los Angeles-Long Beach Regulation 93-03]

Security Zone Regulations: Pacific Ocean South of Santa Cruz Island, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a Security Zone in the Territorial Waters south of Santa Cruz Island in the vicinity of Yellow Bluff.