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(Sec. 12 of the Wagner-Peyser Act of 1933 (29 U.S.C. 49c–3, 557))

Signed at Washington, D.C. this 3rd day of March 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76–6821 Filed 3–11–76;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 75N–0171]

PART 121—FOOD ADDITIVES

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Antibiotic, Nitrofuran, and Sulfonamide Drugs in the Feed of Animals

Correction

In FR Doc. 76–5221 appearing at page 8282 in the issue for Wednesday, February 25, 1976, make the following changes:

1. On page 8293, under the "Grams per ton" for "3.3 Amprolium", "h.3.1", the figure which presently reads "36.3–133.5" should read "36.3–113.5".

2. On page 8308, in the first line beginning "Pfizer, Inc.", under "Indications for use", the designation "Do." should appear.

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

NOTICES RELATING TO DRUG EFFICACY

The Food and Drug Administration is amending § 2.121 *Redelegations of authority from the Commissioner to other officers of the Administration* (21 CFR 2.121) to provide for a new delegation of authority to issue FEDERAL REGISTER notices announcing or upgrading efficacy findings for drugs as a part of the Drug Efficacy Study implementing the Drug Amendments of 1962 (Pub. L. 87–781, 76 Stat. 780–796); effective March 10, 1976.

Further redelegation of the authority redelegated by this amendment is not authorized. Authority redelegated by this amendment to a specified position may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 2 is amended in § 2.121 by adding paragraph (ii) to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

* * * * *

(ii) *Delegation regarding issuance of notice implementing the provisions of the Drug Amendments of 1962.* The Director and Deputy Director of the Bureau of Drugs are authorized to issue notices and amendments thereto implementing section 107(c)(3) of the Drug Amendments of 1962 (Pub. L. 87–781) by announcing new or revised efficacy findings on human drugs that are or were subject to the provisions of section 505 and 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 and 357).

Effective date. This regulation is effective March 10, 1976.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: March 4, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76–6741 Filed 3–9–76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI–327]

Letter of Map Amendment for the City of Cedar Rapids, Iowa

On August 12, 1974, in 39 FR 28888, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Cedar Rapids, Iowa. Map No. H 190187 06 indicates that Lots 6 and 8, Block 2, McGrew's First Addition, Cedar Rapids, Iowa, as recorded in Volume 143, Pages 6 through 8 in the office of the Recorder of Linn County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the apartment buildings on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 190187 06 is hereby corrected to reflect that buildings on the above property are not within the Special Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: February 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–6776 Filed 3–9–76;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI–440]

Letter of Map Amendment for the City of Wichita, Kansas

On January 10, 1975, in 40 FR 2183, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Wichita, Kansas. Map Nos. H 200328 07 and 08 indicate that Country Lake Addition, Wichita, Kansas, recorded as Document No. 253492 in File No. MI–24 in the office of the Register of Deeds of Sedgwick County, Kansas; and Comotara First Addition, Wichita, Kansas, recorded as Document No. 191119 in the office of the Register of Deeds of Sedgwick County, Kansas, are within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lot 1, Country Lake Subdivision; and Blocks A through K, Lots B through F, and Reserves A through G, Comotara First Addition, are not within the Special Flood Hazard Area. Lot 2, Country Lake Subdivision, and Lot A, Comotara First Addition, with the exception of the areas shown as floodways on the recorded plat maps cited above, are not within the Special Flood Hazard Area. Accordingly, Map Nos. H 200328 07 and 08 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: February 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–6777 Filed 3–9–76;8:45 am]

[Docket No. FI–446]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shreveport, Louisiana

On January 13, 1975, in 40 FR 2427, the Federal Insurance Administrator published a list of communities with

Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036 28 indicates that Lots 1, 2, 3, 34, 35, 44, 45, 63, and 96, The Meadow Subdivision Unit No. 1, Shreveport, Louisiana, as recorded in Book 1500, Page 19, of the records of Caddo Parish, Louisiana, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 220036 28 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 3, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: February 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–6778 Filed 3–9–76;8:45 am]

[Docket No. FI–904]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Fairfax County, Virginia

On January 8, 1976, in 41 FR 1477, the Federal Insurance Administrator published a list of communities with special hazard areas which included Fairfax County, Virginia. Map No. H 515525 19 indicates that Lot 568, Rolling Valley Subdivision, Section 6, being 8414 Danford Court, Fairfax County, Virginia, as recorded in Deed Book 3084, Page 708 in the office of the Clerk of the Court of Fairfax County, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone C, and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 515525 19 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 7, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: February 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–6779 Filed 3–9–76;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

[Docket No. FI 905]

Letter of Map Amendment for the City of Fairfax, Virginia

On January 8, 1976, in 41 FR 1477, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Fairfax, Virginia. Map No. H 515524A 01 indicates that Lot 15, Briarcliff Subdivision, being 10602 Springmann Drive, Fairfax, Virginia, as recorded in Deed Book 1535, Page 429 in the office of the Clerk of the Court of Fairfax County, Virginia, is within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is within Zone B, and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 515524A 01 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on May 5, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: February 17, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–6780 Filed 3–9–76;8:45 am]

[Docket No. FI–688]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Phoenix, Arizona

On September 15, 1975, in 40 FR 42554, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Phoenix, Arizona. Map No. H 040051A 37 indicates that Moon Valley Gardens VII, Phoenix Arizona, as recorded in Book 144, Page 35 in the office of the Recorder of Maricopa County, Arizona, is partially within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 4 through 49 of the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 040051A 37 is hereby corrected to reflect that Lots 4 through 49 of the above property are not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: February 18, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–6781 Filed 3–9–76;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF–25; Reference Notice No. 281]

PART 5—DISTILLED SPIRITS LABELING AND ADVERTISING

Metric Standards of Fill

The issue of metric standards of fill for alcoholic beverages has been under consideration by the Bureau since the latter part of 1973. As public interest in metrication increased, the Bureau received many letters commenting on and making recommendations for metric standards of fill for distilled spirits. The Distilled Spirits Council of the United States submitted their comments in the form of a petition. The petition called for replacing present standards of fill with specific metric standards and requested a hearing on the matter.

The Bureau published a Notice of Proposed Rulemaking and Public Hearing in the FEDERAL REGISTER on July 16 (as later corrected in the July 24, 1975 issue). The Notice contained proposals made by both DISCUS and ATF and set September 10 and 11, 1975 as the dates of the public hearing. Prior to the hearing, many comments were received from a variety of interested parties. At the hearing, a 60 day comment period was established for the filing of additional views. This comment period was subsequently extended by the Director an additional 30 days (to December 10, 1975).

THE METRIC PROPOSALS

The Notice of Proposed Rulemaking and Public Hearing concerning metric standards of fill for distilled spirits contained proposed regulatory changes in seven specific areas. The proposals were as follows:

Proposal 1. Metric Standards of Fill. The DISCUS petition recommended amending 27 CFR Part 5 by replacing the current U.S. standards of fill with the following six metric standards: 50 ml, 187.5 ml, 375 ml, 750 ml, 1 liter, and 1.75 liters. The Bureau had reservations about two of the six sizes and proposed a 250 ml in place of the 187.5 and a 500 ml in place of the 375 proposed by DISCUS.

Proposal 2. Bottles per shipping case. Both DISCUS and ATF proposed that the number of bottles per shipping case or container be standardized. It was proposed that the following bottles per shipping case be adopted on a mandatory basis:

Fill standard	Bottles/Case
50 ml	120
187.5 ml (250 ml)	48
375 ml (500 ml)	24
750 ml	12
1 liter	12
1.75 liters	6

Proposal 3. Metric Phase-In. Both DISCUS and ATF proposed a phase-in period ending on December 31, 1978. During this time, spirits could be bottled in either U.S. or metric standards. On and after January 1, 1979, all spirits would have to be bottled in accordance with the metric standards of fill.

Proposal 4. Complete Conversion. DISCUS proposed that once a producer or bottler converted to a metric size, that producer or bottler would be prohibited from continuing to bottle a comparable size of that product in U.S. ounces. ATF expanded somewhat on the DISCUS proposal by proposing that conversion to a given metric standard of fill be complete with respect to any given product.

Proposal 5. Exemption for previously bottled spirits. DISCUS and ATF proposed that spirits bottled in existing sizes prior to any mandatory date for metrication should be allowed to be marketed *after* the mandatory date. In addition, ATF provided that no spirits would be imported into this country in bottles not conforming to the new metric standards of fill after the mandatory date unless they were accompanied by a certificate or statement that they were bottled prior to such mandatory date.

Proposal 6. Standards of fill for cordials, liqueurs, etc. The Bureau proposed to revoke the exception to authorized standards of fill presently allowed for cordials, liqueurs, cocktails, highballs, bitters and certain specialties.

Proposal 7. Labeling in both metric and U.S. measure. ATF proposed that, if during the transition period bottles conforming to metric standards of fill are used, the bottler must state net contents in both metric and U.S. measure.

Summary of Comments Received

Prior to the hearing, at the hearing and during the post hearing comment period, serious questions or arguments were received concerning only three of the seven specific areas where regulatory changes were proposed. These areas were: metric standards of fill, bottles per shipping case and the metric phase-in period. Arguments presented in these areas will be detailed in the section of this Treasury Decision dealing with our final decisions. None of the persons testifying at the hearing, nor any of the persons submitting written comments prior to or after the hearing, were opposed to the idea of converting to metric standards of fill.

Comments on distilled spirits metrication were received from six basic groups:

(1) Industry associations and industry members.

(2) Foreign governments and foreign bottlers.

(3) State agencies.

(4) Members of the glass industry.

(5) Consumers.

(6) Metric Associations.

Industry associations and industry members were solidly in favor of the proposals as laid out in the DISCUS petition. Exceptions to this were in the area of bottles per case where there were requests for more "flexibility" and in the area of the proposed 1.75 liter standard where proposals were received for a 1.5 liter bottle.

State agencies and members of the glass industry, in general, favored the sizes proposed by DISCUS. Members of the glass industry, however, also indicated their desire for a longer phase-in period.

A variety of responses were received from foreign governments, bottlers and associations. Some favored the sizes proposed by DISCUS, others favored the sizes proposed by ATF, while still others favored sizes that were dominant in their own countries or were sizes accepted by the European Economic Community. Three of the more frequently mentioned sizes were 700 ml, 720 ml and 200 ml.

The comments received from consumers can be broken into two general categories—those favoring the sizes proposed by ATF, and those favoring a scheme of sizes that would reflect the simplicity of a "true" metric system.

Interesting and informative comments were also received from the Canadian Metric Association and the U.S. Metric Association. In general, these comments were aimed at explaining the metric system itself and attempted to give us suggestions as to what general metric guidelines our conversion should take.

All comments received on the subject of metrication were given careful consideration by the Bureau prior to making the final determinations. As mentioned earlier, major comments, questions or arguments were received concerning only three of the seven proposals—metric standards of fill, bottles per shipping case and the metric phase-in period. Proposals 4 through 7 (complete conversion, exemption for previously bottled spirits, standards of fill for cordials, liqueurs, etc. and labeling in both metric and U.S. measure) have, therefore, been adopted essentially as set forth in our Notice. Specific comments received, and the Bureau's reasons for the final adoptions in the three main areas of concern follow.

Metric Standards of Fill

The Bureau agreed with DISCUS that the standards of fill for distilled spirits should be in metric units. Nearly all of the rest of the world has "gone metric". Distilled spirits are an important product in international trade, and putting the United States on the same basis as the rest of the world cannot help but promote this trade. Taking all comments into consideration, and in light of the spirit of Public Law 94-168, recently signed into law by President Ford as the "Metric Conversion Act of 1975" (which encouraged "rationalization or simplification" and a "reduction of size variations"), the Bureau has adopted the following scheme of six metric standards of fill, with sufficient separation to preclude possible consumer deception:

1. *50 ml:* Both ATF and DISCUS proposed the adoption of a 50 ml standard of fill. As the DISCUS petition was amended to eliminate the initial restriction on sales of the 50 ml, there were no major differences of opinion regarding this size. The 50 ml appears to be the logical replacement for the current miniature (less than 1/20 of an ounce difference) while at the same time it is a round number easy to work with in a metric scheme of sizes. This size has also been approved by the European Economic Community (EEC).

2. *1 liter:* Again, both ATF and DISCUS proposed the 1 liter standard of fill. As with the 50 ml, there were no adverse comments received regarding this size. Both the U.S. and Canadian Metric Associations, along with some comments received from consumers, pointed out that the liter is in the basic unit for liquid measure in the metric system.

3. *750 ml:* Although four foreign countries, France (an industry association), Ireland, Belgium and Austria submitted requests for a 700 ml or 720 ml bottle, eight other countries submitting comments did not oppose the 750 ml size. These countries were: France (French Embassy), Italy, Sweden, Portugal, Finland, Luxembourg, Canada and Greece. Because of this foreign support, and because of the overwhelming domestic support for the 750 ml, the Bureau has adopted the 750 ml as a standard of fill. A 750 ml bottle contains only 3 tenths of an ounce less than the current "fifth"—a very popular size among American consumers.

4. *500 ml:* In light of the fact that the Bureau proposed a 500 ml size as opposed to DISCUS's 375 ml, all of the varying arguments presented at the public hearing and in the written comments periods were carefully considered before adopting the 500 ml.

Although, as pointed out by DISCUS in their petition and by many comments received from other distilled spirits associations and individual companies, a 375 ml bottle would be close in size to the current 4/5 pint and the same equipment could be used to make the bottle, a 500 ml bottle approximates the current pint. There are many more pints bottled than 4/5 pints (based on Fiscal Year 1975 strip stamp usage statistics,

about 11% of the total number of strip stamps used by domestic bottlers or importers were for pints, as opposed to 3% for 4/5 pints).

Supporters of the 375 stated that a 500 ml size would necessitate a price increase over the current pint. The Bureau sees nothing wrong with this in light of the fact that a 500 ml bottle will contain more than the pint. If the price per unit volume stayed the same, there would be no price increase in real terms.

Although arguments were received concerning the fact that a 375 ml bottle was adopted for wine, we must remember that a 375 ml wine bottle is the "half bottle" of wine commonly sold in restaurants. This situation does not hold true for distilled spirits.

The DISCUS proposal further stated that the 375 would be exactly ½ of the 750 ml—for easy price comparison. A 500 ml bottle, however, would be exactly ½ of the liter—and the liter is the basic unit of measure in the metric system. It was also pointed out, by consumers and metric associations alike, that a 500 ml would give us a round number (easier to work with) and is a true metric size, compatible in the use of the metric system's 1–2–5 series of price and size comparisons. The 1–2–5 series will be briefly explained later in this document.

5. *200 ml:* The two sizes mentioned in the Notice of Proposed Rulemaking were 250 ml (proposed by ATF) and 187.5 ml (proposed by DISCUS).

One of the main problems we, in the Bureau, expressed regarding a proposed 187.5 ml standard was not resolved by the substantive comments received at the public hearing or during the written comment periods. One of the principal advantages of the metric system is the ease of manipulating figures. A good share of that advantage would be sacrificed by adopting a standard of fill stated in both whole numbers and decimals. It would seem that this would create unnecessary hardships for the consumer who has to try to visualize what .5 ml amounts to and hardships for retailers, wholesalers, bottlers and various Government agencies who would have to manipulate figures of 187.5 in various records and accounts. For these reasons the Bureau initially proposed a 250 ml standard, thus eliminating the decimal point problem.

After closely examining all comments received, the Bureau has decided to adopt a 200 ml bottle as the standard of fill.

We heard many arguments from industry members that a 250 ml size would require a price increase over the current ½ pint bottle. As with the 500 ml size, this "price increase" would be the result of the fact that the 250 would hold more than the current ½ pint. This situation would be eliminated, however, by the adoption of a 200 ml standard of fill. Neither the 200 nor the 187.5 closely approximates a current standard of fill.

Industry also stated (in support of the 187.5) that, because of its size, it could be run faster and cheaper than a 250 ml bottle. This being the case, a 200 ml bottle should also be able to be run faster and cheaper than a 250 and because there is only 12.5 ml difference, there should not be much difference in production time and cost between the 200 and the 187.5.

Another very important point to consider in the adoption of a 200 ml standard is the fact that the European Economic Community has accepted and adopted this size. A 187.5 ml size was not adopted by the EEC and they are phasing out the 250 ml by 1980. The EEC itself, along with many foreign countries, submitted proposals for the adoption of the 200 ml.

As mentioned earlier, one of the benefits of metrication is simplicity and we do not feel the scheme of standards should be complicated with a decimal as is the case with the 187.5 proposed standard. Although the 250 would eliminate the decimal, the 200 accomplishes the same thing using a number that is even easier to work with.

A 200 ml bottle is a true metric size and fits into the 1–2–5 series mentioned previously. The 1–2–5 series of size and price comparison is as old as metrication itself. In order to make price comparisons and to relate to the basic unit of one liter, any "halved" range may require calculations with factors of 2, 4, 8 or 16. With the 1–2–5 series, the only calculation *ever* required is multiplication or division by 2 (in some cases combined with a moving of the decimal point). The adoption of a 200 ml bottle allows us to have all sizes of 1 liter and below in a 1–2–5 series (other than the 750 ml).

6. *1.75 liter:* Both ATF and DISCUS proposed the adoption of a 1.75 liter standard. At the hearing, many comments were made by members of the distilled spirits and glass manufacturing industries concerning "double-gobbing" in arguments for the 1.75 over a 2 liter bottle. "Double-gobbing" is a process used in the manufacture of glass containers which allows greater production efficiencies. Several industry members indicated that a 2 liter bottle could not be "double-gobbed" using present glass producing equipment while some equipment in use today could "double-gob" a 1.75 liter bottle. Thus, they contended that cost savings realized from a 1.75 liter bottle could be passed on to the consumer.

On the other hand, some comments were received concerning the adoption of a 1.5 liter standard. Comments received from brandy associations and some of the large brandy producers pointed out that a 1.5 liter standard would allow them to use the same molds they are currently using for wine bottles and, therefore, would be more economical for them. However, DISCUS and members of the distilled spirits industry argued that there would be too great a volume difference between the 1.5 and the current ½ gallon (almost 14 ounces) and because of this, the 1.5 liter would not replace the ½ gallon in the eyes of the consumer.

After taking all comments into consideration, the Bureau has decided to adopt the 1.75 liter as a standard of fill.

METRIC PHASE-IN

In our Notice of Proposed Rulemaking and Public Hearing, the Bureau agreed with the DISCUS proposal for a transition period of at least three years. This proposed phase-in period would have been from January 1, 1976 to December 31, 1978. It was felt that this phase-in period would promote an orderly transition by (1) allowing current bottle molds to be replaced as they wear out, without having to discard serviceable molds; (2) allowing costs of conversion to be spread over a period of time; and (3) allowing a period for consumers to become acquainted with the new metric sizes.

As we have gotten deeper and deeper into the field of distilled spirits metrication, an essential need has arisen for a delay between the time the final regulations are printed in the FEDERAL REGISTER and their effective date. A post hearing comment received from DISCUS indicated that this need is prevalent within the industry itself. DISCUS requested a 90 day delay between the publication of the regulations and their effective date "in fairness to all bottlers who must order new mold sets." In addition to mold sets, there may well be needed changes to other equipment being used at distilled spirits plants that would benefit by such a delay.

Reasons for a delay are also present within ATF. Our strip stamps are currently printed in a "standard" size and a "less than ½ pt." size. The designation "less than ½ pt." will have to be removed from the small stamps. Including paperwork and the manufacture of new molds and plates, it will take approximately 3 months just to prepare for printing. Time will then have to be allowed for printing a supply of stamps and getting them distributed to the industry. A similar problem may exist for certain state government agencies that require state tax stamps placed on bottles—some of these are also "denominational".

Also, many sections of related regulations (particularly Part 201) must be revised to accommodate metrication. The Bureau desires to have the necessary changes in such areas as records and reports and conversion factors to be used (and when to use them) published prior to the bottling of any metric sizes.

For these reasons, the adopted regulations (27 CFR Part 5) have been changed subsequent to the Notice to allow for a delay between the date of their publication in the Federal Register and their effective date. The effective date has been established as October 1, 1976 to allow for enough time for both industry and ATF to prepare for the conversion and to coincide with the beginning of a new "quarter" for reporting purposes.

Since we have experienced a 30 day extension of the post hearing comment period and adopted a delay between the publication of the regulations and their effective date, and based on comments at the public hearing and during the written comment periods, we have extended the phase-in period to make com-

plete metrication mandatory on January 1, 1980.

Members of the glass container manufacturing industry expressed concern over the conversion period; first, in a request for a four year period, and later in a request for a size by size approach to the phase-in. ATF saw many possible problems in a size by size approach to the phase-in, and the few comments received from distilled spirits industry members were also against this approach. We feel that the extension of the mandatory date should ease any problems that may arise in this area.

It is also the Bureau's opinion that metric conversion in distilled spirits will be more difficult than for wine (and our phase-in period for wine is four years). Also, our arguments or reasons for a three year period for distilled spirits (spreading costs over a period of time and allowing a period for consumers to become familiar with the new metric sizes) will be even more meaningful with a longer transition period.

For these reasons the Bureau has adopted January 1, 1980 as the mandatory date for distilled spirit metrication.

BOTTLES PER SHIPPING CASE

The Bureau agreed with DISCUS's initial proposal that the number of bottles packed in a shipping case or shipping container should be standardized.

Standardization of case packing will simplify marketing and pricing of distilled spirits since each case containing the same size bottle will contain the same quantity in liters. Therefore, a case of distilled spirits of a given size will automatically represent a precise quantity of spirits in both numbers of bottles and liters to the consumer, retailers, wholesalers and bottlers. Standard case size in liters should increase efficiency in warehouse stocking, in inventorying cases, determining State and Federal taxes and import duties, and maintaining records.

During the hearing and the posthearing comment period, the Bureau received five comments against this proposal. These comments were received from DISCUS, Schenley Industries, Inc., The National Liquor Stores Association, Premium Products, Inc. and the Independent American Whiskey Association. The main points brought out in opposing this standardization were the facts that certain states have their own case requirements (that would conflict with those proposed) and that bottles of unusual design could not fit in a standardized case. In looking into this problem, the Bureau has learned that only four states require certain standard case quantities.

ATF agrees that it would not be feasible to impose case packing requirements for bottles of unusual design or for cases destined for states having opposing requirements. However, the number of times these types of situations would arise would amount to a minute percentage of all cases packed.

The advantages mentioned above for standardizing the number of bottles per case are too great to eliminate the proposal based on such a small percentage of problem situations. Because of this, the Bureau has adopted the proposal for a standard number of bottles per case, while at the same time leaving an opening to enable us to allow for these problems. An additional section has been added to this area of the regulations giving the Director the authority to waive the bottles per case requirements provided good cause is shown.

OTHER CHANGE SUBSEQUENT TO NOTICE

Definition of a "liter". In our Notice of Proposed Rulemaking, ATF defined the liter as "A metric unit of capacity equal to 1,000 cubic centimeters at 4° C. . .". We have since learned that the definition of a liter using 4° C as the reference temperature is the definition of a liter of water and it may not necessarily be appropriate for distilled spirits. Although the Bureau realizes that most foreign countries use 20° C as the reference temperature for distilled spirits, we have adopted, at this time, 15.56° C (60° F) as the reference temperature for distilled spirits. Due to the fact that the law establishes 60° F as the reference temperature for a proof gallon for tax determination purposes, and different reference temperatures for tax determination and bottling would cause a number of complications, ATF feels this is not the appropriate time to change the bottling reference temperature. In addition to other complications this would necessitate the use of yet another conversion factor during a period of time that will be confusing enough in just the conversion to metric standards of fill. The question of reference temperature may be re-opened at a later date.

The following regulations are issued under the authority contained in 27 U.S.C. 205 (49 Stat. 961, as amended).

REGULATORY CHANGES

In consideration of the foregoing, 27 CFR Part 5 is amended as follows:

Paragraph 1. Amend § 5.11 by (1) amending the definitions of "Assistant regional commissioner" and "Director" to reflect current Bureau organizational structure; (2) amending the definition of "Gallon" and adding, in alphabetical order, a definition for "Liter or litre" to make it clear that units of liquid measure need not be of the U.S. system of measure; (3) amending the definition of "In bulk" to show the metric equivalent of one wine gallon; and (4) adding, in alphabetical order, a definition for "Regional director". As amended, § 5.11 reads as follows:

§ 5.11 Meaning of terms.

* * * * *

Assistant regional commissioner. Wherever used in this part shall mean a regional director as defined in this section.

* * * * *

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

* * * * *

Gallon. U.S. gallon of 231 cubic inches of alcoholic beverage at 60° F.

* * * * *

In bulk. In containers having a capacity in excess of 1 wine gallon (3.785 liters).

* * * * *

Liter or litre. A metric unit of capacity equal to 1,000 cubic centimeters of distilled spirits at 15.56° C (60° F.), and equivalent to 33.814 U.S. fluid ounces. A liter is subdivided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

* * * * *

Regional director. A regional director who is responsible to, and functions under the direction and supervision of, the Director, Bureau of Alcohol, Tobacco and Firearms.

* * * * *

Par. 2. Section 5.32 is amended by (1) adding a reference, in paragraph (a)(4), to net contents stated in both metric and U.S. fluid measures; and (2) adding references, in paragraph (b)(3), to metric standards of fill and to net contents stated either in metric measure only or in both metric and U.S. fluid measures.

As amended, § 5.32 reads as follows:

§ 5.32 Mandatory label information.

* * * * *

(a) * * *

(4) In the case of distilled spirits packaged in containers for which no standard of fill is prescribed in § 5.47, net contents in accordance with § 5.38(b) or § 5.38(b)(2).

(b) * * *

(3) In the case of distilled spirits packaged in containers conforming to the standards of fill prescribed in § 5.47 or § 5.47a, net contents in accordance with § 5.38(a), § 5.38a(a) or § 5.38a(b)(1).

* * * * *

Par. 3. Paragraph (b) of § 5.33 is revised to include metric exceptions to size of type requirements. As revised, paragraph (b) of § 5.33 reads as follows:

§ 5.33 Additional requirements.

* * * * *

(b) *Location of statements and size of type.* (1) Statements required by §§ 5.31–5.42 (except brand names) shall appear generally parallel to the base on which the container rests as it is designed to be displayed or shall be otherwise equally conspicuous.

(2) Statements required by §§ 5.31–5.32 (except brand names) shall be separate and apart from any other descriptive or explanatory matter.

(3) Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(4) When net contents are stated in U.S. fluid measure only, statements required by §§ 5.31–5.42 (except brand names) shall be in script, type or printing not smaller than 8-point Gothic caps, except that, in the case of labels on bottles of less than one-half pint capacity, such script, type or printing may be smaller than 8-point Gothic caps if readily legible under ordinary conditions.

(5) When net contents are stated either in metric measure or in both metric and U.S. fluid measures, statements required by §§ 5.31–5.42 (except brand names) shall be in script, type or printing not smaller than 8-point Gothic caps, except that, in the case of labels on bottles of less than 200 ml capacity, such script, type or printing may be smaller than 8-point Gothic caps if readily legible under ordinary conditions.

* * * * *

Par. 4. Section 5.38 is amended by (1) inserting the phrase "Until December 31, 1979" at the beginning of the first sentence of paragraph (a); (2) by adding the phrase "Except as otherwise provided in § 5.38a(b)(3), until December 31, 1979" at the beginning of the first sentence of paragraph (b); and (3) adding a new paragraph, (d). As amended, § 5.38 reads as follows:

§ 5.38 Net contents.

(a) *Bottles conforming to standards of fill.* Until December 31, 1979, the net contents of distilled spirits for which a standard of fill is prescribed in § 5.47 shall be stated in the same manner and form in which such standard of fill is set forth. * * *

(b) *Bottles not conforming to standards of fill.* Except as otherwise provided in § 5.38a(b)(3), until December 31, 1979, the net contents of distilled spirits for which no standard to fill is prescribed in § 5.47 shall be stated as follows:

* * * * *

(d) *Limitation.* This section shall not apply on or after January 1, 1980.

Par. 5. A new section, 5.38a, concerning metric net contents, is added immediately following § 5.38 to read as follows:

§ 5.38a Metric net contents.

(a) *Bottles conforming to metric standards of fill.*

On or after January 1, 1980, the net contents of distilled spirits shall be stated in the same manner and form in which metric standards of fill are set forth in § 5.47a. Such net contents need not be stated on the label if they are legibly blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on the side, front, or back of the container in an unobscured location. Containers of 200 milliliters or greater capacity must bear letters and figures of not less than one-quarter inch height.

(b) *Net contents stated in both metric and U.S. fluid measures.* (1) A bottler may use a metric standard of fill prescribed in § 5.47a(a) after September 30, 1976, but must do so after December 31, 1979. Until December 31, 1979, whenever metric standards of fill are used, net contents shall be stated in both metric measure and the equivalent volume in U.S. fluid measure as follows:

1.75 liters (59.2 fl. oz.)
1.00 liter (33.8 fl. oz.)
750 milliliters (25.4 fl. oz.)
500 milliliters (16.9 fl. oz.)
200 milliliters (6.8 fl. oz.)
50 milliliters (1.7 fl. oz.)

(2) Until December 31, 1979, a bottler shall state in both metric and U.S. fluid measures the net contents of distilled spirits for which no standard of fill is prescribed in § 5.47(a), for example, 700 ml. (23.7 fl. oz.). However, this requirement shall apply to spirits exempted from the standards of fill under the provisions of § 5.48(b) only if the bottle (or label thereon) of such spirits contains a reference to net contents expressed in metric units. When required, the metric measure shall be accurate to the nearest one-hundredth of a liter for sizes in excess of one liter and shall be stated in milliliters (ml) for sizes less than one liter. When required, the U.S. measure shall be accurate to the nearest one-tenth of a fluid ounce.

(3) In lieu of the net content statement prescribed in paragraph (b)(2) of this section for distilled spirits for which no standard of fill is prescribed in § 5.47(a), a bottler may utilize his existing stocks of labels or bottles bearing content statements set forth in the fashion prescribed by § 5.38(b). When existing stocks of such labels or bottles are exhausted, the U.S. net content statement or the U.S. equivalent volume shall be stated in terms of fluid ounces only as prescribed in paragraph (b)(2) of this section.

(c) *Qualifying statements.* Words or phrases qualifying statements of net contents are prohibited.

Par. 6. Section 5.45 is amended by adding the requirement that distilled spirits in bottles must be packed in conformity with § 5.49. As amended, § 5.45 reads as follows:

§ 5.45 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or othewise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled and packed in conformity with §§ 5.46–5.49.

Par. 7. Section 5.46 is amended by (1) renumbering paragraph (b) as paragraph (b)(1) and revising it to limit its applicability to U.S. fluid measure only; and (2) adding a new paragraph (b)(2) to specify headspace requirements when net contents are stated in either metric measure only or in both metric and U.S. fluid measures. As amended, § 5.46 reads as follows:

§ 5.46 Standard liquor bottles.

* * * * *

(b) *Headspace.* (1) If the net contents are stated only in U.S. fluid measure, a liquor bottle of a capacity of 200 milli-pint or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

(2) If the net contents are stated either in metric measure only or stated in both metric and U.S. fluid measures, a liquor bottle of a capacity of 200 milliliters or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

* * * * *

Par. 8. Section 5.47 is amended by (1) deleting the term "domestically manufactured" in paragraph (a); and (2) by adding a new paragraph, (d), to prescribe limitations for the applicability of standards of fill. As amended, § 5.47 reads as follows:

§ 5.47 Standards of fill.

(a) *Authorized standards of fill.* The standards of fill for all distilled spirits, whether domestically bottled or imported, subject to the tolerances allowed in this section, shall be as follows:

* * * * *

(d) *Limitations.* This section shall not apply on or after January 1, 1980. The metric standards of fill prescribed in § 5.47a may be substituted for the standards of fill in this section on or after October 1, 1976, but must be applied on or after January 1, 1980.

Par. 9. A new section, § 5.47a, which prescribes metric standards of fill, is added immediately following § 5.47 to read as follows:

§ 5.47a Metric standards of fill.

(a) *Authorized standards of fill.* On or after January 1, 1980, the standards of fill for all distilled spirits, whether domestically bottled or imported, shall be as follows:

1.75 liters
1.00 liter
750 milliliters
500 milliliters
200 milliliters
50 milliliters

(b) *Tolerances.* The following tolerances shall be allowed:

(1) Discrepancies due to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles to a uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) *Unreasonable shortages.* Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

(d) *Completeness of conversion.* Whenever a permittee or foreign bottler commences bottling a given product in a standard liquor bottle corresponding to a metric standard of fill prescribed by

paragraph (a) of this section, he may not thereafter bottle that product in any standard liquor bottle corresponding to a standard of fill prescribed by § 5.47. He may, however, continue to use a corresponding standard of fill prescribed by § 5.47 for that product in a bottle of unusual design which has been approved under the provisions of § 5.48. For the purposes of this paragraph, (1) product shall mean a given class and type of distilled spirits bearing a given brand name (e.g., ABC bourbon, ABC gin, XYZ bourbon, and XYZ gin would be four distinct products), and (2) the standards of fill in U.S. measure which correspond to the metric standards are:

Metric standard (prescribed by sec. 5.47a(a)):	*Corresponding standard (prescribed by sec. 5.47(a))*	
1.75 l	gallon	½
1 l	quart	1
750 ml	do	⅘
500 ml	pint	1
200 ml	do	½
50 ml	do	⅛, 1/10, 1/16

(e) *Packaging requirements.* Whenever bottle are filled according to metric standards of fill, such bottles shall be packed with the number of bottles per shipping case or shipping container as prescribed in § 5.49.

(f) *Distilled spirits bottled before January 1, 1980.* Distilled spirits bottled domestically before January 1, 1980, may be marketed after January 1, 1980, if such distilled spirits were bottled in accordance with § 5.47. (See § 5.53 for similar provisions relating to distilled spirits imported in original containers.)

Par. 10. Paragraph (b) of § 5.48 is revised to show that cordials, liqueurs, cocktails, highballs, bitters, and certain specialties will not be exempt from metric standard of fill requirements on or after January 1, 1980. As revised, § 5.48 reads as follows:

§ 5.48 Exceptions.

* * * * *

(b) Until December 31, 1979, sections 5.47(a) and 5.47a(a) shall not apply to cordials and liqueurs, and cocktails, highballs, bitters, and such other specialties as are specified by the Director. On or after October 1, 1976, the metric standards of fill may optionally be applied to cordials and liqueurs, and cocktails, highballs, bitters, and specialties; however, such standards shall mandatorily apply on or after January 1, 1980.

Par. 11. A new section, 5.49, is added immediately following § 5.48 to (1) standardize the number of bottles packed per shipping case when bottles are filled according to the metric standards of fill and (2) provide for a waiver from the bottles per case requirements when good cause can be shown. As added, § 5.49 reads as follows:

§ 5.49 Bottles per shipping case.

(a) *General.* Distilled spirits, whether domestically bottled or imported subject to the metric standards of fill prescribed in § 5.47a, shall be packed with the following number of bottles per shipping case or container:

Bottle sizes:	*Bottles per case*
1.75 l	6
1 l	12
750 ml	12
500 ml	24
200 ml	60
50 ml	120

(b) *Exceptions.* (1) Where distilled spirits were being filled according to the metric standards of fill prior to October 1, 1976, the case packaging requirements may optionally be used on or after October 1, 1976, but shall become mandatory on or after January 1, 1980.

(2) Upon application in duplicate, approved by the Director, the bottles per case requirements set forth in paragraph (a) of this section may be waived provided good cause can be shown by the bottler or importer.

Par. 12. A new section, 5.53, providing for a certificate of nonstandard of fill for spirits imported in original containers, is added immediately following § 5.52 to read as follows:

§ 5.53 Certificate of nonstandard fill.

(a) Distilled spirits imported in original containers not conforming to the metric standards of fill prescribed in § 5.47a shall not be released from Customs custody after December 31, 1979:

(1) Unless the distilled spirits are accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the distilled spirits were bottled or packed prior to January 1, 1980; or

(2) Unless the distilled spirits are being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before December 31, 1979.

This Treasury decision shall become effective on October 1, 1976.

Signed: March 1, 1976.

REX D. DAVIS,
Director.

Approved: March 3, 1976.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-6644 Filed 3-9-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 643-76]

PART 50—STATEMENTS OF POLICY

Freedom of Information Committee

This order revises the Department of Justice policy with regard to the Freedom of Information Committee.

The previous regulations of the Department of Justice concerning advice-giving with respect to the Freedom of Information Act contemplated regular consultation with the Department's Freedom of Information Committee prior to the issuance of a final denial by an agency. The stringent time limits established by the 1974 Amendments to the Freedom of Information Act and the increased volume of Freedom of Information business sometimes render such prior consultation impracticable. The present revision of the Department's regulations is intended to preserve the system of consultation with the Freedom of Information Committee to the maximum extent feasible, while eliminating the now impracticable bar against defense of litigation where prior consultation has not occurred. Since the Freedom of Information Committee, consisting of representatives from both the Office of Legal Counsel and the Civil Division, will work in close cooperation with the Civil Division with respect to denials which have become the subject of litigation, it will continue to be both important and advantageous for agencies contemplating denials to seek the Committee's prior advice wherever possible.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 50.9 of part 50 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 50.9 The Freedom of Information Committee.

(a) A Freedom of Information Committee is established within the Department of Justice to encourage compliance with the Freedom of Information Act, 5 U.S.C. 552, throughout the Executive Branch. The Committee consists of attorneys designated by the Assistant Attorney General, Office of Legal Counsel, one of whom shall be designated chairman, and attorneys designated by the Assistant Attorney General, Civil Division. The Committee shall coordinate the annual report of the Attorney General required by 5 U.S.C. 552(d) and shall provide assistance and encouragement to Federal agencies in complying with the letter and spirit of the Freedom of Information Act through training of Federal personnel and consultation with agencies on particular matters arising under the Freedom of Information Act. In consulting with agencies proposing to issue final denials under the Act, the Committee shall, in addition to advising the agency with respect to legal issues, invite the attention of the agency to the range of public policies reflected in the Act, including the central policy of fullest responsible disclosure. The Committee may also undertake studies and make recommendations to carry out the intent of this subsection.

(b) All Federal agencies which intend to deny requests for records under the Freedom of Information Act should consult with the Freedom of Information Committee, to the fullest extent practicable, before litigation ensues. After litigation begins, all contacts regarding the matter should be with the Civil Division or other component of the Department of Justice responsible for defense of the suit.

Dated: March 2, 1976.

EDWARD H. LEVI,
Attorney General.

[FR Doc.76-6815 Filed 3-9-76;8:45 am]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 71—SURFACE WORK AREAS OF UNDERGROUND COAL MINES AND SURFACE COAL MINES

Exposure to Asbestos

Pursuant to the authority vested in the Secretary of the Interior under section 101 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811), to promulgate mandatory health standards transmitted to him by the Secretary of Health, Education, and Welfare, there was published in the FEDERAL REGISTER for November 7, 1972 (37 FR 23645) a proposed standard for occupational exposure to asbestos in surface coal mines and surface work areas of underground coal mines.

Interested persons were afforded a period of 45 days within which to submit written comments, suggestions, or objections to the proposed standard and a number of comments were received by the Bureau of Mines (now the Mining Enforcement and Safety Administration) and transmitted to the Department of Health, Education, and Welfare for consideration. On April 10, 1974, the Acting Deputy Assistant Secretary of the Interior, in accordance with section 101 (f) of the Act, published a notice (39 FR 13003) that objections to the proposed asbestos standard had been filed stating the grounds for such objections with sufficient particularity and that a public hearing had been requested. The Department of Health, Education, and Welfare notice of hearing (39 FR 16913) afforded interested persons an opportunity to be heard at the hearing which was conducted by the National Institute for Occupational Safety and Health at that Department on June 5, 1974.

On the basis of the evidence presented at the hearing and on other information available to the Department of Health, Education, and Welfare concerning the asbestos standard, findings of fact were made public in accordance with section 101(g) of the Act on August 5, 1974 (39 FR 28176) with the result that the only change in the standard as proposed has been the addition of a definition for "asbestos" to clarify that nonfibrous or nonasbestiform minerals are not intended to be within the scope of the standard.

In accordance with section 101(h) of the Act, the amendments to Part 71 as set forth below are effective on March 10, 1976.

Dated: March 4, 1976.

WILLIAM L. FISHER,
Deputy Assistant Secretary of the Interior.

Part 71 is amended as set forth below:

1. In Subpart C, the first sentence of § 71.200(a) is amended to read as follows:

§ 71.200 Inhalation hazards; threshold limit values for gases, dusts, fumes, mists, and vapors.

(a) No operator of an underground coal mine and no operator of a surface coal mine may permit any person working at a surface installation or surface worksite to be exposed to airborne contaminants (other than respirable coal mine dust, respirable dust containing quartz, and asbestos dust) in excess of, on the basis of a time-weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists in "Threshold Limit Values of Airborne Contaminants" (1972) which is hereby incorporated by reference and made a part hereof. * * *

* * * * *

2. In Subpart C, a new § 71.202 is added to read as follows:

§ 71.202 Asbestos dust standard; measurement.

(a) The 8-hour average airborne concentration of asbestos dust to which miners are exposed shall not exceed two fibers per cubic centimeter of air. Exposure to a concentration greater than two fibers per cubic centimeter of air, but not to exceed 10 fibers per cubic centimeter of air, may be permitted for a total of 1 hour each 8-hour day. As used in this Subpart, the term asbestos means chrysotile, amosite, crocidolite, anthophylite asbestos, tremolite asbestos, and actinolite asbestos but does not include nonfibrous or nonasbestiform minerals.

(b) The determination of fiber concentration shall be made by counting all fibers longer than 5 micrometers in length and with a length-to-width ratio of at least 3 to 1 in at least 20 randomly selected fields using phase contrast microscopy at 400–450 magnification.

[FR Doc.76-6813 Filed 3-9-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 499-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Announcement of Removal of Court Suspension of Transportation Control Plan Regulations and Postponement of Final Compliance Date for Stage I Vapor Recovery—Boston, Massachusetts

The Environmental Protection Agency is hereby publishing notice that on February 23, 1976, the United States Court of Appeals for the First Circuit ordered the removal of its earlier suspension of certain transportation control plan regulations for the Metropolitan Boston Intrastate Air Quality Control Region (the "Boston Intrastate Region"). Accordingly, the following regulations are in effect as of the date of publication of this FEDERAL REGISTER notice:

1. 40 CFR 52.1135. Regulation for Parking Freeze;

2. 40 CFR 52.1144. Regulation on Evaporative Emissions from Retail Gasoline Outlets (except for paragraph 52.1144 (d), as discussed below); and

3. 40 CFR 52.1161. Incentives for Reduction in Single-Passenger Commuter Vehicle Use.

Paragraph 52.1144(d), containing the so-called "Stage II Vapor Recovery Regulations" remains suspended by the Court pending the promulgation of final Agency regulations and further order of the court.

The above regulations were originally promulgated by the Agency on November 8, 1973 (38 FR 30960) and the suspension was ordered by the Court on September 27, 1974, in the case of *South Terminal Corporation* v. *EPA* (6 ERC 2025, 504 F. 2d 646) and eight related cases arising out of nine separate petitions for review of the original regulations. The Agency promulgated revised regulations on June 12, 1975 (40 FR 25151) but postponed the effectiveness of the above-mentioned regulations pending removal of the court's suspension.

The result of the February 23, 1976, court order is that all of the Agency's transportation control plan regulations for the Boston Intrastate Region are now in effect with the sole exception of the Stage II vapor recovery regulations.

POSTPONEMENT OF MARCH 1, 1976, DEADLINE FOR INSTALLATION OF STAGE I VAPOR RECOVERY EQUIPMENT

Due to the court suspension there has been substantial uncertainty in the public mind about the status of the Agency's Stage I vapor recovery regulations in the Boston Intrastate Region. Due to this uncertainty a number of sources subject to the Stage I requirements have not yet installed the equipment which was originally required by § 52.1147(a)(5) to be in place by March 1, 1976. In order to allow these sources an opportunity to install the equipment now that the suspension is removed, the Agency has decided to extend the March 1 deadline to June 1, 1976. The Agency anticipates that this additional period of time will lead to substantial compliance by the affected sources and will therefore minimize the need for Agency enforcement action.

The Administrator does not consider today's schedule revision to be a significant change in the June 12, 1975, promulgation. The Stage I requirements were previously subject to public hearing and comments, and the change in the compliance deadline will not prejudice those subject to the requirements. For these reasons and those discussed previously, the Administrator finds that notice and public procedure on the change are unnecessary and would be contrary to the public interest, and that there is good cause for the time extension to be effective immediately. Therefore, this change will become effective immediately upon publication in the FEDERAL REGISTER. This action is being taken pursuant to sections 110(c) and 301 of the Clean Air Act (42 U.S.C. 1857c-5(c) and § 1857(g)).

Dated: March 4, 1976.

RUSSELL E. TRAIN,
Administrator.