

the last payment, and so forth as necessary.

(2) The latest OCSE-OA-25 submitted by the State shall be used to estimate the State's share of annual expenditures for the IV-D program. That estimated share shall be the sum of the State's share of the estimates (as shown on the latest OCSE-OA-25) for four quarters, beginning with the quarter in which the first installment is to be paid.

(3) In case of termination of the program, the actual State share—rather than the estimate—shall be used for determining whether the amount of the repayment exceeds 2½ percent of the annual State share for the IV-D program. The annual State share in these cases will be determined using payments computable for Federal funding as reported for the program by the State on its Quarterly Statement of Expenditures (SRS-OA-41) reports submitted for the last four quarters preceding the date on which the program was terminated.

(4) Repayment shall be accomplished through adjustment in the quarterly grants over the period covered by the repayment schedule.

(5) The amount of the repayment for purpose of paragraphs (a) and (b) of this section may not include any amount previously approved for installment repayment.

(6) The repayment schedule may be extended beyond 12 quarterly installments if the total repayment amount exceeds 100% of the estimated State share of annual expenditures.

In these circumstances, the criteria in paragraphs (b) (1) and (2) or (3) of this section, as appropriate, shall be followed for repayment of the amount equal to 100% of the annual State share. The remaining amount of the repayment shall be in quarterly amounts not less than those for the 9th through 12th quarters.

(7) The amount of a retroactive claim to be paid a State will be offset against any amounts to be, or already being, repaid by the State in installments, under the same title of the Social Security Act. Under this provision the State may choose to:

(i) Suspend payments until the retroactive claim due the State has, in fact, been offset; or

(ii) Continue payments until the reduced amount of its debt (remaining after the offset), has been paid in full. This second option would result in a shorter payment period.

A retroactive claim for the purpose of this regulation is a claim applicable to any period ending 12 months or more prior to the beginning of the quarter in which the payment is to be made by the Service.

(8) Interest on repayments will not be charged unless mandated by court order. (Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.679—Child Support Enforcement.)

NOTE.—The Department has determined that this document does not require preparation of an Inflationary Impact Statement

under Executive Order 11821 and OMB Circular A-107.

JOSEPH F. CALIFANO, Jr.,
Secretary.

[FR Doc. 77-15906 Filed 6-3-77; 8:45 am]

Title 46—Shipping

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-006]

PART 2—VESSEL INSPECTIONS Reports of Casualties and Accidents

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is deleting 46 CFR 2.20-60 because the essence of the regulations for requiring a written notice from the master, owner, agent, or operator of a vessel involved in a marine casualty is contained in 46 CFR Part 4 and 33 CFR Part 173 and 174. These regulations are superfluous and should not be in Part 2 of 46 CFR since this part applies only to vessel inspections.

EFFECTIVE DATE: July 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202 426-1477). The principal persons involved in drafting this rule are: Lieutenant Anthony Regalbutto, Project Manager, and Mr. Michael Mervin, Project Attorney.

SUPPLEMENTARY INFORMATION: The Coast Guard finds under 5 U.S.C. 553(b) (3) (B) that a notice of proposed rulemaking is unnecessary since the deletion of 46 CFR 2.20-60 merely eliminates duplication of 46 CFR Part 4 and 33 CFR Parts 173 and 174.

§ 2.20-60 [Revoked]

In consideration of the foregoing, Part 2 of Title 46 of the Code of Federal Regulations is amended by deleting § 2.20-60.

(33 U.S.C. 361, 46 U.S.C. 526p, 49 U.S.C. 1655 (b), 49 CFR 1.45(a) (2) and 1.45(b).)

Dated: May 31, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 77-15960 Filed 6-3-77; 8:45 am]

[CGD 75-041]

PART 31—INSPECTION AND CERTIFICATION

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

Loading Information for Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: This rule making amends the regulations for tank vessels to re-

quire all tank vessels over 300 feet in length to have the loading information required for vessels subject to the load line regulations in Parts 42 and 45 of Title 46. The effect of these regulations will be to require new tank barges and other new tank vessels operating solely on inland waters or on special service coastwise voyages to have this information. The load line regulations already require other tank vessels to have the information.

This rule making is based upon a Coast Guard review of recent barge designs. The review shows that several new barges have proportions similar to a T-2 tanker and that vessels with these proportions that are over 300 feet in length can be subject to unsafe stress levels if not properly loaded. The requirements are also based upon investigation of barge casualties in which improper loading led to structural damage.

EFFECTIVE DATE: These amendments become effective on September 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (202-426-1477).

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was published in the FEDERAL REGISTER on October 12, 1976 (41 FR 44711). Interested persons were invited to submit written comments before November 29, 1976. Five comments were received two of which concurred with the rules as proposed.

DRAFTING INFORMATION: The principal persons involved in drafting these rules are: Ralph E. Johnson, Project Manager, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of Chief Counsel.

DISCUSSION OF MAJOR COMMENTS

One commenter proposed that the loading information required by the proposed rules be simplified and restricted to the sequence of loading, unloading, and ballasting operations. The current regulations in Parts 42 and 45 describe in general terms the type of loading information required for a tank vessel. The operator of the vessel is in the best position to develop for Coast Guard approval the specific form and content of the information; and, accordingly, no detailed requirements concerning the form and content of loading information are included in the regulations.

One commenter concluded that since the proposed regulations did not reference existing barges, the notice was not applicable to these vessels. The commenter's conclusion is correct and the final regulations have been clarified to provide that they apply to vessels on which construction begins after the regulations become effective.

One commenter objected to the proposed regulations as being examples of over-regulation. He said that large numbers of barges are loaded each year; and

that because few mishaps have occurred, a requirement for these vessels to have approved loading information is not justified. The Coast Guard disagrees. Use of the loading information required by the regulations on vessels over 300 feet in length can prevent improper loading and casualties of the type described in the notice of proposed rulemaking. If one of these vessels is improperly loaded, it can be subject to unsafe stress levels and a resulting structural failure.

The final regulations have been clarified to emphasize that they apply both to tank barges carrying cargoes regulated under Subchapter D of Title 46 and to tank barges carrying cargoes regulated under Part 151 of Subchapter O. Both the proposed regulations and the preamble to the notice of proposed rule making state that the regulations would apply to all tank vessels. This includes both tankships and tank barges whether manned or unmanned.

In consideration of the foregoing, Parts 31 and 151 of Title 46, Code of Federal Regulations, are amended as follows:

1. By adding a new § 31.10-32 to Part 31 to read as follows:

§ 31.10-32 Loading information-TB/ALL.

(a) This section applies to each tankship and tank barge the construction of which begins on or after

(b) Each tank vessel over 300 feet in length must have the loading information prescribed in either § 42.15-1(a) or § 45.105(a) of this chapter. For tank vessels subject to the Load Line Acts the information must be approved by the Commandant or by a recognized classification society that is approved by the Commandant. For tank vessels not subject to the Load Line Acts loading information must be approved by the Commandant. If the vessel is a tankship, the approved information must be provided to the master of the vessel. If the vessel is a tank barge, the information must be provided to the person in charge of handling the cargo during loading or off-loading of the barge.

(2) By adding in Part 151 a new paragraph (C-1) after paragraph (c) of § 151.01-10 to read as follows:

§ 151.01-10 Application of vessel inspection regulations.

(c-1) Each unmanned tank barge constructed on or after that carries in bulk a cargo listed in Table 151.01-10(b) and that is certificated under Subchapter I of this chapter must meet the loading information requirements in § 31.10-32 of this chapter.

(46 U.S.C. 170 and 391a; 49 U.S.C. 1655(b); 49 CFR 1.46.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive

Order 11821, as amended, and OMB Circular A-107.

Dated: May 31, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant*

[FR Doc. 77-15962 Filed 6-3-77; 8:46 am]

Title 47—Telecommunication
CHAPTER I—FEDERAL
COMMUNICATIONS COMMISSION
[PCC 77-341]

PART 1—PRACTICE AND PROCEDURE

Amendment of Rules Concerning Motions for Extensions of Time

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Commission, on its own motion, revised the rule on granting of motions for extension of time for filing pleadings in rulemaking proceedings. Originally, we had applied the rule only to deadlines specified after the matter became a docketed proceeding. The rule, as revised, requires that motions for extension of time to file responses to petitions for rulemaking, replies to such responses, comments filed in response to notice of proposed rulemaking, replies to such comments and other papers, shall be filed at least 7 days before the currently specified filing date. The rule was revised in order to achieve uniformity of treatment.

DATE: Effective June 10, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 19, 1977.

Released: May 27, 1977.

Order. In the matter of amendment of §§ 1.46(b) and 1.415(e) rules of practice and procedure.

1. The Commission has under consideration §§ 1.46 and 1.415 of its rules, dealing with the granting of motions for extension of time for filing pleadings. Section 1.46(b) presently provides that such motions for extension of time to file comments, reply comments or other papers in rule making proceedings conducted shall be filed at least 7 days before the currently specified filing date. In rulemaking proceedings the comments of all participants are due on the same day, and the identity of participants is not known until their comments have been filed. Therefore motions for extension of time cannot be served on other participants and since the extension, if granted, is almost invariably granted to all participants, rather than only to the

moving party, interested persons become informed of the grant only through a public notice issued by the Commission. In such circumstances, last minute requests for extension of time are a source of possible prejudice to other participants.

2. Until now we have applied the rule only to deadlines specified after the matter has become a docketed proceeding. Thus, motions for extension of time in which to file responses to a petition for rule making or replies to those responses, steps which occur before the case is docketed, are not now covered by the rule. In our experience this difference in treatment is not a necessary one and does not lead to fairer administration of the rule making process. In fact our experience suggests to us the appropriateness of changing our approach to achieve uniformity of treatment. We are also revising § 1.415(e) which refers the reader to § 1.46(b) for the time limits for filing extensions in rulemaking cases. As revised it will include responses to petitions for rulemaking and replies to such responses in addition to comments filed in response to notices of proposed rulemaking and replies to such comments. Because the amendment is procedural, the prior notice provisions of 5 U.S.C. are inapplicable—see section 553(b) (3) (A)—and we shall amend §§ 1.46(b) and 1.415 (e) at this time.

3. Accordingly, it is ordered, Effective June 10, 1977, That §§ 1.46(b) and 1.415 (e) of the rules and practice and procedure are amended as set forth below. Authority for this amendment is contained in sections 4 (i) and (j) and 303 (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. Section 1.46(b) is revised to read as follows:

§ 1.46 Motions for extension of time.

(a) * * *

(b) Motions for extension of time in which to file responses to petitions for rulemaking, replies to such responses, comments filed in response to notice of proposed rulemaking, replies to such comments and other papers in rulemaking proceedings conducted under Subpart C of this part shall be filed at least 7 days before the filing date. If a timely motion is denied, the responses and comments, replies thereto, or other papers need not be filed until 2 business days after the Commission acts on the motion. In emergency situations, the Commission will consider a late-filed motion for a brief extension of time related to the duration of the emergency and will consider motions for acceptance of the responses and comments, replies thereto or other papers filed after the filing date.

2. Section 1.415(e) is revised to read as follows:

§ 1.415 Comments and replies.

(e) For time limits for filing motions for extension of time for filing responses to petitions for rulemaking, replies to such responses, comments filed in response to notices of proposed rulemaking, replies to such comments, see § 1.46(b).

[FR Doc.77-15893 Filed 6-3-77;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-103/112; Amendments]

CONSOLIDATION OF HAZARDOUS MATERIALS REGULATIONS

Extension of Placarding Compliance Date
AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: This rule extends the date after which the new diamond shaped hazardous materials placards prescribed last year under this docket must be displayed on transport vehicles, freight containers and portable tanks, from July 1, 1977, to January 1, 1978. This action is taken because the Bureau has concluded that the new placards may not be available to certain shippers and carriers by the current July 1, 1977, mandatory compliance date. The extension will provide an additional six months to assure that an adequate supply of placards is available and distributed to both shippers and carriers.

EFFECTIVE DATE: This amendment altering the mandatory compliance date is effective on June 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. C. H. Thompson, Acting Director, Office of Hazardous Materials Operations, 2100 Second Street SW., Washington, D.C. 20590, Phone 202-426-0656.

SUPPLEMENTARY INFORMATION:

On December 30, 1976, the Materials Transportation Bureau (MTB) published its final document under Docket No. HM-103/112. However, since that time, additional information has come to the MTB's attention through petitions which indicate that additional consideration should be given to the mandatory compliance date for placarding. Generally, petitioners contend that, for a variety of reasons, more time is needed to assure be available by the mandatory compliance date.

Because of the difficulties not only of obtaining placards but also of having them distributed to all shippers and carriers, the MTB is granting a limited extension to the mandatory compliance date to assure that full compliance is possible at the time compliance is required. As a consequence of this amend-

ment, the new placarding requirements established last year in Subpart F of Part 172 need not be complied with until January 1, 1978, provided that placarding requirements in effect on June 30, 1976, are complied with instead.

This document is a relaxation of existing requirements and does not impose new requirements. For this reason, and because of the need for the Department to act in advance of the existing July 1, 1977, compliance date, public notice is dispensed with. This action is not expected to increase costs to Federal, State, or local governments, to consumers, or to the businesses affected, and should not have any significant environmental impact. Primary drafters of this document are Joseph T. Horning and Chris Caseman, Office of Hazardous Materials Operations, Regulations Development Branch, and Douglas A. Crockett, Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, the 103/112 (41 FR 15972, April 15, 1976), effective date provision in Docket HM-appearing at 41 FR 16131, as amended at 41 FR 26014 (June 24, 1976), 41 FR 40691 (September 20, 1976), and 41 FR 57018 (December 30, 1976), is further amended by revising the fourth numbered paragraph and amending the sixth numbered paragraph to read as follows:

Effective date:

(4) Compliance with the provisions of this amendment appearing in Subpart F of Part 172 (Placarding) need not be complied with until January 1, 1978.

(6) For purposes of the application of Part 174 (except § 174.25) to rail cars from July 1, 1976, to January 1, 1978, placards specified in this amendment, and placards specified under regulations in effect on June 30, 1976, may be treated as equivalent according to the following table:

(18 U.S.C. 1803, 1804, 1806; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on June 2, 1977.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.77-16052 Filed 6-3-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S.O. 1237]

PART 1033—CAR SERVICE

Regulations for Return of Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Second Revised Service Order No. 1237).

SUMMARY: Second Revised Service Order No. 1237 requires the return of owning railroads of open hopper cars owned by: The Baltimore and Ohio Railroad, Bassemer and Lake Erie Railroad, Consolidated Rail Corporation, Louisville and Nashville Railroad, Norfolk and Western Railway, The Pittsburgh and Lake Erie Railroad, and Western Maryland Railway. There are shortages of hopper cars on the lines of the beneficiary railroads for transporting shipments of coal, ore, construction aggregates, and other bulk freight.

DATES: Effective 11:59 p.m., May 31, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

The order is reprinted in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of May 1977.

It appearing, that an acute shortage of hopper cars exists in certain sections of the country; that shippers are being deprived of hopper cars required for loading coal, resulting in an emergency, forcing curtailment of their operations, and thus creating great economic loss and reduced employment of their personnel; that coal stockpiles of several utility companies are being depleted; that hopper cars, after being unloaded, are being appropriated and being retained in services for which they have not been designated by the car owners; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of hopper cars are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1237 Regulations for return of hopper cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty, either via the reverse of the service route or direct, as agreed to by the owner, all hopper cars owned by the following railroads:

The Baltimore and Ohio Railroad Company.
Reporting Marks: B&O.
Bessemer and Lake Erie Railroad Company.
Reporting Marks: B&LE.

The Chesapeake and Ohio Railway Company.
Reporting Marks: C&O.

Consolidated Rail Corporation. Reporting
Marks: BA-BWC-CNJ-CR-DL&W-EL-
ERIE-LV-NH-NYC-PC-P&E-PR-
RDG-TOC.

Louisville and Nashville Railroad Company.
Reporting Marks: L&N-NC-MON.

Norfolk and Western Railway Company. Re-
porting Marks: ACY-N&W-NKP-P&WV-
VGN-WAB.

The Pittsburgh and Lake Erie Railroad Com-
pany. Reporting Marks: P&LE.

Western Maryland Railway Company. Re-
porting Marks: WM.

(2) Carriers named in paragraph (1) above
are prohibited from loading all hopper cars
foreign to their lines and must return such
cars to the owner, either via the reverse of
the service route or direct, as agreed to by
the owner.

(b) For the purpose of improving car uti-
lization and the efficiency of railroad opera-
tions, or alleviating inequities or hardships,
modifications may be authorized by the
Chief Transportation Officer of the car owner,
or by the Director or Assistant Director of
the Bureau of Operations, Interstate Com-
merce Commission. Modifications authorized
by the car owner must be confirmed in writ-
ing to W. H. Van Slyke, Chairman, Car Ser-
vice Division, Association of American Rail-
roads, Washington, D.C., for submission to
the Director or Assistant Director.

(c) No common carrier by railroad subject
to the Interstate Commerce Act shall accept
from shipper any loaded hopper car, described
in this order, contrary to the provisions of
the order.

(d) The term hopper cars, as used in this
order, means freight cars having a mechan-
ical designation listed under the heading
"Class 'H'-Hopper Car Type" in the Official
Railway Equipment Register, I.C.C.-R.E.R.
No. 403 issued by W. J. Trezise, or reissues
thereof.

(e) *Application.* The provisions of this
order shall apply to intrastate, interstate, and
foreign commerce.

(f) *Effective date.* This order shall become
effective at 11:59 p.m., May 31, 1977.

(g) *Expiration date.* The provisions of this
order shall expire at 11:59 p.m., November 30,
1977, unless otherwise modified, changed or
suspended by order of this Commission.
(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383,
384, as amended; 49 U.S.C. 1, 12, 15 and 17(2).
Interprets or applies secs. 1(10-17), 15(4),
and 17(2), 40 Stat. 101, as amended, 54 Stat.
911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered. That a copy of
this order and direction shall be served
upon the Association of American Rail-
roads, Car Service Division, as agent of
all railroads subscribing to the car serv-
ice and car hire agreement under the
terms of that agreement, and upon the
American Short Line Railroad Associa-
tion; and that notice of this order be
given to the general public by depositing
a copy in the Office of the Secretary of
the Commission at Washington, D.C.,
and by filing it with the Director, Office
of the Federal Register.

By the Commission, Railroad Service
Board, members Joel E. Burns, Robert S.
Turkington, and John R. Michael. Mem-
ber Robert S. Turkington not participat-
ing.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-15826 Filed 6-3-77; 8:45 am]

SUBCHAPTER B—OTHER REGULATIONS
RELATING TO TRANSPORTATION

[Ex Parte No. MC-88]

PART 1307—FREIGHT RATE TARIFFS,
SCHEDULES, AND CLASSIFICATIONS
OF MOTOR CARRIERS

Subpart B—Common Carrier Freight
Tariff and Classification

TERMINAL AND SPECIAL SERVICES

AGENCY: Interstate Commerce Com-
mission.

ACTION: Final rule.

SUMMARY: This document prescribes
uniform nationwide rules and charges
for the detention of motor vehicles. The
rules are intended to eliminate unlaw-
ful practices related to detention, and to
untangle confused and overlapping de-
tention rules.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Janice M. Rosenak, Deputy Director,
Section of Rates, Rm. 5334, Interstate
Commerce Commission, 12th and Con-
stitution Ave. NW., Washington, D.C.
20423 (202-275-7693).

SUPPLEMENTARY INFORMATION:
On May 22, 1973, the Interstate Com-
merce Commission instituted Ex Parte
No. MC 88, Detention of Motor Vehi-
cles—Nationwide, by publishing as a pro-
posed rule a new § 1307.35(e) of Part
1307 of Title 49 of the Code of Federal
Regulations (38 FR 17254). As a result of
the proceedings in Ex Parte No. MC 88,
the Commission adopted a new § 1307.35
(e). The new rules were published at 41
FR 22067. The rules published here are
final rules adopted after reconsideration
of the record in Ex Parte No. MC 88. Five
differences exist between the final rules
adopted here and the rules adopted
earlier.

The first three differences are con-
tained in section 4, Free Time. The first
change is in the number of weight/time
categories. The prior rules provided five
categories, with "over 36,000" as the last.
The final rules have created an addi-
tional category for shipments weighing
44,000 pounds or more, with 420 minutes
of free time. The second change appears
in paragraph (b) of section 4. The final
rules have added the words "not to ex-
ceed 120 minutes" at the end of the sen-
tence comprising section 4(b). The third
change is the addition of the following
words to section 4(b) after "not to ex-
ceed 120 minutes": "except that, when
open-top equipment is used in lieu of
closed equipment to transport shipments
of unpalleted general commodities, free
time will be as provided in section 4(a)."

The fourth and fifth differences be-
tween the prior rules and the final rules
appear in the portion of the rules en-
titled (2) "Detention—vehicles without
power units spotting or dropping of trail-
ers." The fourth change is in Section 2,
Definitions, at paragraph (s), where the
final rules have added the words "with or
without wheels" after the words "mobile
units."

The fifth and last difference between
the prior and final rules appears in Sec-
tion 3, Computation of free time. This

section has been modified to read as
follows:

Section 3: Computation of free time. (a)
Commencement of spotting and free time:
(1) Spotted trailers will be allowed 24 con-
secutive hours of free time for loading or un-
loading. For trailers spotted for unloading,
such time shall commence at the time of
placement of the trailer at the site desig-
nated by consignee, or other party desig-
nated by consignee. For trailers spotted for
loading, such time shall commence when the
trailer is spotted at the site specifically
designated by the consignor or a party desig-
nated by consignor, or, in the case of an
empty trailer placed at the premises of con-
signor without specific request, at the time
a specific request to spot a trailer is received
by the carrier. Upon expiration of the 24
hours of free time, detention charges will ac-
cure as provided in section 4.

ROBERT L. OSWALD,
Secretary.

Amend 49 CFR 1307.35 "terminal and
special services," by adding thereto as
1307.35(e) the following:

§ 1307.35 Terminal and special services.

(e) *Detention of vehicles.* The follow-
ing rules apply to all shipments except
shipments of household goods; commodi-
ties transported in bulk in tank truck,
dump trucks, vehicles pneumatically un-
loaded and other self-unloading mechan-
ized vehicles; heavy and specialized
commodities or articles requiring special
equipment or handling outside the scope
of the certificates of general-commodi-
ties motor common carriers; livestock
other than ordinary; articles picked up
or delivered to railroad care having prior
or subsequent transportation by rail;
and shipments to consignors and con-
signees of waterborne commerce at
marine terminal facilities to the extent
that the marine terminal operator would
be liable to the motor common carrier
for truck detention under any applicable
detention rule promulgated pursuant to
the authority of the Federal Maritime
Commission. All common carriers of
property by motor vehicle subject to
Interstate Commerce Act excepting those
specifically excluded, *supra*, shall publish
the below rule entitled "Detention—Ve-
hicles With Power Units" and all such
carriers engaging in the practice of spot-
ting shall also publish the below rule en-
titled "Detention—Vehicles Without
Power Units." The wording of the follow-
ing rules may not be varied except where
clearly warranted by exceptional cir-
cumstances, and where appropriate, the
word "rule" may be substituted for the
word "item."

(1) *Detention—vehicles with power
units.* This item applies when carrier's
vehicles with power units are delayed or
detained on the premises of consignor,
consignee, or on other premises desig-
nated by them, or as close thereto as
conditions will permit, subject to the fol-
lowing provisions:

SECTION 1. *General provisions.* (a) This
item applies only to vehicles which have
been ordered or used to transport shipments
subject to truckload rates. For the purposes
of this item, the term truckload rates shall
be considered to include shipments moving
on a rate subject to a stated minimum
weight of 10,000 pounds or more when not

¹ Addition.

designated as a truckload rate, and, where applicable, shipments which are assessed charges based on the provisions of a Capacity Load Rule or are accorded Exclusive Use of Vehicle Service or Expedited Service.

(b) This item applies only when vehicles are delayed or detained at the premises of pickup or delivery and only when such delay or detention is not attributable to the carrier.

(c) Free time for each vehicle will be as provided in section 4. After the expiration of free time, charges will be assessed as provided in section 5.

(d) The detention charges due the carrier will be assessed against the consignor in the case of loading and against the consignee in the case of unloading, irrespective of whether line-haul charges are prepaid or collect. When detention charges are attributable to others who are not parties to the Bill of Lading contract, the charges will be assessed against the shipment. (See Note A.)

(e) When carrier's employee assists in loading, unloading, or checking the freight, this item will apply whether or not the power unit is actually detained.

(f) Nothing in this item shall require a carrier to pick up or deliver freight at hours other than the carrier's normal business hours. This shall not be construed to restrict a carrier's ability to accept pickup and delivery scheduled at hours other than its normal business hours.

Sec. 2. Definitions. The following general definitions will apply when the below terms are used in this item:

(a) "Vehicle" means straight trucks or tractor-trailer combinations used for the transportation of property.

(b) "Loading" includes furnishing carrier with the Bill of Lading, forwarding directions, or other documents necessary for forwarding the shipment.

(c) "Unloading" includes: (1) Surrender of the Bill of Lading to the carrier on shipments billed "To Order."

(2) Payment of lawful charges to the carrier when required prior to delivery of the shipment.

(3) Notification to the carrier that vehicle is unloaded, and

(4) Signing of the delivery receipt.

(d) "Premises" means the entire property at or near the physical facilities of consignor, consignee, or other designated party.

(e) "Site" means a specific location at or on the premises of consignor, consignee, or other designated party.

(f) "Normal nonworking periods" means meal, coffee, and rest breaks.

(g) "Pallet" means pallets, platforms, shipping racks, or skids with or without standing sides or ends, but without tops.

Sec. 3. Computation of time. (a) Commencement and termination: (1) The time per vehicle shall begin to run upon actual notification by carrier's employee to a responsible representative of consignor, consignee, or other designated party at the premises of pickup or delivery of the arrival of the vehicle for loading or unloading. Upon such notification, the responsible representative of consignor, consignee, or other designated party may enter the time of arrival onto the carrier's detention record. If the representative refuses to enter the time, then carrier's employee will enter the time and it will be binding upon each party.

(2) Time shall end upon completion of loading or unloading except as provided for in paragraph (c) of this section. Upon such completion, a responsible representative of consignor, consignee, or other designated party may enter the time of completion onto the carrier's detention record. If the representative refuses to enter the time, then carrier's employee will enter the time and it will be binding.

(b) Prearranged scheduling: (1) Subject to the provisions of item 2 and upon reasonable request of consignor, consignee, or others designated by them, carrier will without additional charge enter into a prearranged schedule for arrival of the vehicle for loading or unloading.

(2) When the carrier enters into a prearranged schedule with consignor, consignee, or others designated by them for the arrival of the vehicle for loading or unloading and carrier is unable for any reason to maintain such schedule, the carrier and consignor, consignee, or other party designated by them have the option to agree to a mutually convenient and prompt alternative arrival time or in the event such agreement cannot be reached, to compute detention time against consignor, consignee, or other party designated by them from carrier's actual arrival time subject to an extension of 15 minutes for each 15 minutes, or fraction thereof, the vehicle is delayed beyond the originally scheduled arrival time; in no case shall such extended free time exceed 60 minutes.

(3) If carrier's vehicle arrives prior to scheduled time, times shall begin to run from the scheduled time or actual time loading or unloading commences, whichever is earlier.

(c) Conditions governing the computation of time: (1) Computations of time are subject to and are to be made within the normal business hours at the designated place of pickup or delivery. If carrier is permitted to work beyond this period, such working time shall also be included.

(2) When loading or unloading is not completed at the end of normal business hours at the designated place, consignor, consignee, or other party designated by them shall have the option: (1) To request that the vehicle without power remain at its premises subject to the provisions of section 4(d); or

(2) To request that the vehicle with power be returned to carrier without being subject to charges for storage or redelivery so long as free time has not yet expired. When the vehicle is returned for completion of loading or unloading the computation of any remaining free time will resume. If free time has expired and detention has begun to accrue, storage or redelivery charges as may otherwise be provided will be assessed.

(3) When carrier's employee interrupts loading or unloading by the taking of any normal nonworking periods, any such time will be excluded from the computation of free time, or will be excluded from the computation of time in excess of free time.

Sec. 4. Free time. (a) Free time shall be computed as follows:

Actual weight in pounds per vehicle stop (see Note B):

Actual weight in pounds per vehicle stop	Free time in minutes per vehicle stop
Less than 10,000.....	120
10,000 but less than 20,000.....	180
20,000 but less than 28,000.....	240
28,000 but less than 36,000.....	300
36,000 but less than 44,000.....	360
44,000 or more.....	420

(b) When at least 90 percent of the shipment weight (exclusive of pallet weight) is loaded on pallets, or when shipment is loaded on flat-bed or other open-top equipment, free time shall be one-half that amount normally applicable for the weight, not to exceed 120 minutes, except that, when open-top equipment is used in lieu of closed equipment to transport shipments of unpalletized general commodities, free time will be as provided in section 4(a).

(c) When more than one truckload shipment or a truckload shipment and one or

more less-than-truckload (LTL) or any quantity (AQ) shipments are loaded on one vehicle at the premises of consignor or when more than one truckload shipment or a truckload shipment and one or more LTL or AQ shipments are unloaded from one vehicle at the premises of consignee or other designated party, the combined weight will be used to determine free time; in all other instances the individual shipment weight will be used.

(d) When a vehicle with power is changed to a vehicle without power at the request of consignor, consignee, or other party designated by them, the free time and detention charges will be applied as follows: (1) If the change is requested and made before the expiration of free time for a vehicle with power, free time will cease immediately at the time the request is made, and detention charges for vehicles without power will immediately commence with no further free time allowed.

(2) If the change is requested and made after the expiration of free time for a vehicle with power, free time and detention charges will be computed on the basis of a vehicle with power up to the time the change was requested. In addition thereto, the vehicle will immediately be charged detention for vehicles without power with no further free time allowed.

(e) When a vehicle is both unloaded and reloaded, each transaction will be treated independently of the other, except that when loading is begun before unloading is completed, free time for loading shall not begin until free time for unloading has elapsed.

(f) Loading or unloading at more than one site at or on the premises of consignor, consignee, or other designated party shall constitute one vehicle stop.

Sec. 5. Charges. When the delay per vehicle beyond free time is 1 hour or less the charge will be \$18. For each additional 30 minutes or fraction thereof, the charge will be \$9.

Sec. 6. Records. A written record of the following information must be maintained by the carrier on all truckload shipments, and such record must be kept available at all times:

(a) Name and address of consignor, consignee, or other party at whose premises freight is loaded or unloaded;

(b) Identification of vehicle tendered for loading or unloading;

(c) Date and time of notification of arrival of the vehicle for loading or unloading;

(d) Date and time loading or unloading is begun;

(e) Date and time loading or unloading is completed;

(f) Date and time vehicle is released by consignor, consignee, or other party at place of pickup or delivery after loading or unloading is completed;

(g) Actual time of nonworking periods;

(h) Total actual weight of shipment or shipments loaded or unloaded;

(i) Whether articles are tendered under a prearranged schedule for loading or unloading;

(j) Date and time specified for vehicles tendered under a prearranged schedule;

(k) Alternative arrangement made when a vehicle is tendered under a prearranged schedule that was not adhered to.

NOTE A.—At those marine terminal facilities where Federal Maritime Commission detention charges apply, carrier charges pursuant to this rule will be assessed against the shipment to the extent such charges exceed those of the Federal Maritime Commission.

NOTE B.—Also applies to the last vehicle used in transporting overflow truckload shipments, or to vehicles containing truckload shipments stopped for completion of loading or partial unloading.

¹ Here the carrier is to identify its pertinent rule.

(2) *Detention-vehicles without power units spotting or dropping of trailers.*

NOTE.—This item applies when carrier's vehicles, without power units are delayed or detained on the premises of consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit, subject to the following provisions:

Sec. 1. General provisions. (a) Subject to the availability of equipment, carrier will spot empty or loaded trailers for loading or unloading on the premises of consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit.

(b) Loading or unloading will be performed by consignor, consignee, or other party designated by them. When carrier's employee assists in loading, unloading, or checking the freight, the detention provisions governing vehicles with power units will apply. In the case of spotting for loading the Bill of Lading must show "Shipper Load and Count."

(c) Carrier responsibility for safeguarding shipments loaded into trailers spotted under the provisions of this item shall begin when loading has been completed and possession thereof is taken by the carrier.

(d) Carrier responsibility for safeguarding shipments unloaded from trailers spotted under the provisions of this item shall cease when the trailer is spotted at or on the site designated by consignee.

(e) Free time for each vehicle will be as provided in section 3. After the expiration of free time charges will be assessed as provided in section 4.

(f) The detention charges due the carrier will be assessed against the consignor in the case of spotting for loading and against the consignee in the case of spotting for unloading irrespective of whether charges are prepaid or collect.

(g) Nothing in this item shall require a carrier to pick up or deliver spotted trailers at hours other than carrier's normal hours. This shall not be construed as a restriction on carrier's ability to pick up or deliver spotted trailers at hours other than its normal business hours.

Section 2. Definitions. The following general definitions will apply when the below terms are used in this item:

(a) "Vehicle means tractor-trailer combinations used for the transportation of property where: (1) "Trailer means mobile units with or without wheels, used to transport property and,

(2) "Tractor" means a mechanically powered unit used to propel or draw a trailer or trailers upon the highways.

(b) "Loading" includes: (1) Furnishing of the Bill of Lading, forwarding directions, or other documents necessary for forwarding the shipment to the carrier, and

(2) Notification to the carrier that the vehicle is loaded and ready for forwarding.

(c) "Unloading" includes: (1) Surrender of the Bill of Lading to the carrier on shipments billed "To Order."

(2) Payment of lawful charges to the carrier when required prior to delivery of the shipment.

(3) Notification to the carrier that vehicle is unloaded and ready for forwarding, and

(4) Signing of delivery receipt.

(d) "Premises" means the entire property at or near the physical facilities of consignor, consignee, or other designated party.

(e) "Site" means a specific location at or on the premises of consignor, consignee, or other designated party.

(f) "Spotting" means the placing of a trailer at a specific site designated by consignor, consignee, or other party designated by them, detaching the trailer, and leaving the trailer in full possession of consignor, consignee, or other designated party unattended by carrier's employee and unaccom-

panied by power unit. Carrier will not move the trailer until such time as it has received notification, pursuant to section 3, that the trailer is ready for pickup. Consignor, consignee, or other designated party may shift the spotted trailer with its own power units at its own expense and risk for the purpose of loading or unloading.

Section 3: Computation of free time. (a) Commencement of spotting and free time:

(1) Spotted trailers will be allowed 24 consecutive hours of free time for loading or unloading. For trailers spotted for unloading, such time shall commence at the time of placement of the trailer at the site designated by consignee, or other party designated by consignee. For trailers spotted for loading, such time shall commence when the trailer is spotted at the site specifically designated by the consignor or a party designated by consignor, or, in the case of an empty trailer placed at the premises of consignor without specific request, at the time a specific request to spot a trailer is received by the carrier. Upon the expiration of the 24 hours of free time, detention charges will accrue as provided in Section 4.

(2) When any portion of the 24-hour free time extends into a Saturday, Sunday, or holiday (national, State, or municipal), the computation of time for such portion shall resume at 12:01 a.m. on the next day which is neither a Saturday, Sunday, or holiday.

(3) Free time shall not begin on a Saturday, Sunday, or holiday (national, State, or municipal), but at 8 a.m. on the next day which is neither a Saturday, Sunday, or holiday.

(4) When a trailer is both unloaded and reloaded, each transaction will be treated independently of the other, except that when loading is begun before unloading is completed, free time for loading shall not begin until free time for unloading has elapsed.

(b) Termination of spotting and notification: (1) Consignor, consignee, or other party designated by them shall notify carrier when loading or unloading has been completed and the trailer is available for pickup. The trailer will be deemed to be spotted and detention charges will accrue until such time as the carrier receives notification. Notification by telephone if convenient and practical, otherwise by telegraph or mail shall be given by consignor, consignee, or other party designated by them at their own expense, to carrier or other party designated by carrier for the purpose of advising such carrier or other party that the spotted trailer has been loaded or unloaded and is ready for pickup. If notification is by telephone, carrier may require written confirmation.

(2) When a spotted trailer is changed to a vehicle with power at the request of consignor, consignee, or other party designated by them, the free time and detention charges will be applied as follows:

(i) If the change is requested and made before the expiration of free time for a spotted trailer, free time will cease immediately at the time the request is made, and detention charges for vehicles with power will immediately commence with no further free time allowed.

(ii) If the change is requested and made after the expiration of free time for a spotted trailer, free time and detention charges will be computed on the basis of a spotted trailer up to the time the change was requested. In addition thereto, the vehicle will immediately be charged detention for a vehicle with power with no further free time allowed.

(c) Prearranged scheduling: (1) Subject to the provisions of item*, and upon reasonable request of consignor, consignee, or others designated by them, carrier will without additional charge enter into a prearranged schedule for the arrival of trailers for spotting.

(2) If carrier's vehicle arrives later than the scheduled time, time shall begin to run from actual time spotting commences.

(3) If carrier's vehicle arrives prior to scheduled time, time shall begin to run from the scheduled time or actual time spotting commences, whichever is earlier.

Section 4. Charges. (a) General detention charges: After the expiration of free time as provided in section 3(a) of this item, charges for detaining a trailer will be assessed as follows:

	Charge
(1) For each of the first and second 24-hour periods or fraction thereof (Saturdays, Sundays, and holidays excepted) -----	\$25
(2) For each of the third and fourth 24-hour periods or fraction thereof (Saturdays, Sundays, and holidays excepted) -----	35
(3) For the fifth and each succeeding 24-hour period or fraction thereof (Saturdays, Sundays, and holidays included) -----	50

(b) Delay in trailer pickup charge: No additional charge will be made for picking up trailers spotted under this item when such pickup can be performed within 30 minutes after arrival of driver and power unit at premises of consignor, consignee, or other party designated by them. When a delay of more than 30 minutes is encountered, detention charges for vehicles with power will commence from the time of arrival as specified in item¹.

(c) Strike interference charge: When because of a strike of its employees, it is impossible for consignor, consignee, or other party designated by them to make available for movement by carrier any partially loaded, or empty trailers detained on their premises, a detention charge of \$25 per day or fraction thereof, per trailer will be made following expiration of free time. Saturdays, Sundays, and holidays shall be included after the 4th day of charges.

Section 5. Records. A written record of the following information must be maintained by the carrier on all spotted trailers, and such record must be kept available at all times:

- (a) Name and address of consignor, consignee, or other party at whose premises the trailer is spotted;
- (b) Identification of spotted trailer;
- (c) Date and time of arrival of the trailer for spotting;
- (d) Date and time notification that the spotted trailer is ready for pickup was received by carrier;

(e) Date and time of arrival and departure of power unit for pickup;

(f) Total actual weight of shipment when pickup is delayed in excess of 30 minutes;

(g) The duration of any strike induced delay on the premises of consignor, consignee, or other designated party which resulted in carrier's inability to obtain the release of any trailer, and any actions taken to hasten the release;

(h) Whether trailers are spotted under a prearranged schedule;

(i) When trailers are spotted under a prearranged schedule, the date and time specified therefor.

NOTE: For the purposes of this item the terms spotting and dropping are considered to be synonymous and are used interchangeably.

[FR Doc.77-15921 Filed 6-3-77;8:45 am]

Title 10—Energy
CHAPTER I—NUCLEAR REGULATORY COMMISSION
Reports to the Commission Concerning Defects and Noncompliance
AGENCY: U.S. Nuclear Regulatory Commission.

¹ Here the carrier is to identify its pertinent rule.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require directors and responsible officers of firms and organizations building, operating or owning NRC-licensed facilities, or conducting NRC-licensed activities, to report failures to comply with regulatory requirements and defects in components which may result in a substantial safety hazard. Also covered under the new regulations are directors and responsible officers of firms and organizations supplying safety-related components, including safety-related design, testing, inspection and consulting services.

NRC licensees and other firms and organizations covered by the new regulations must adopt internal procedures to assure that safety-related defects and noncompliance are brought to the attention of responsible officers and directors. Those individuals, in turn, will be required to notify the Commission within two days, and file a written report within five days, of learning of the defect or noncompliance. Directors and responsible officers may designate an employee to provide on their behalf the notification to NRC.

EFFECTIVE DATE: July 6, 1977. Certain obligations under the effective rule are not imposed until January 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. W. E. Campbell, Jr., Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone 301-443-6917.

SUPPLEMENTARY INFORMATION: On March 3, 1975, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (40 FR 8832) for public comment proposed amendments to 10 CFR Parts 2, 31, 35, and 40 of its regulations and a proposed new Part 21 to its regulations, "Reporting of Defects and Noncompliance."

The purpose of these proposed amendments and the new proposed Part 21 is to implement section 206 of Pub. L. 93-438, the Energy Reorganization Act of 1974, as amended.

Section 206 of the Energy Reorganization Act of 1974 as amended, reads as follows:

"NONCOMPLIANCE"

Sec. 206. (a) Any individual director, or responsible officer of a firm constructing, owning, operating, or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended, or pursuant to this Act, who obtains information reasonably indicating that such facility or activity or basic components supplied to such facility or activity—

(1) Fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

(2) Contains a defect which could create a substantial safety hazard, as defined by regulations which the Commission shall promulgate, shall immediately notify the Commission of such failure to comply, or of such defect, unless such person has actual

knowledge that the Commission has been adequately informed of such defect or failure to comply.

(b) Any person who knowingly and consciously fails to provide the notice required by subsection (a) of this section shall be subject to a civil penalty in an amount equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

(c) The requirements of this section shall be prominently posted on the premises of any facility licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended.

(d) The Commission is authorized to conduct such reasonable inspections and other enforcement activities as needed to insure compliance with the provisions of this section."

The new Part 21 requires that the directors and responsible officers of organizations that construct, own, operate or supply components of a facility or activity that is licensed or otherwise regulated by the Nuclear Regulatory Commission inform the Commission if they obtain information reasonably indicating that such facility, activity or basic component fails to comply with regulatory requirements relating to substantial safety hazards or that such facility, activity, or basic component contains a defect which could create a substantial safety hazard. Part 21 additionally requires that these organizations establish procedures to evaluate deviations from the technical requirements of the procurement documents or inform the purchaser concerning the deviation in order that the purchaser evaluate the deviation or have it evaluated. The organizations subject to the regulations in Part 21 may be many procurement tiers away from the holder of a license to construct or operate a nuclear power reactor. If the license is other than to construct or operate a nuclear power reactor, then the organizations subject to the regulations are those organizations that directly supply the licensee of the facility or activity. The directors and responsible officers of these organizations will be subject to a fine of up to \$5,000 for each deliberate failure to notify the Commission of the existence of such a defect or noncompliance. The organizations subject to Part 21 regulations must also maintain records, post copies of specific documents, inform procurement subcontractors of their responsibility under Part 21 and allow inspection of their premises, facilities and activities by duly authorized representatives of the Commission.

The Commission requires that a number of reports and notifications be submitted by licensees. These include licensee's report of incidents required by 10 CFR § 20.403, permit holder's notification of design or construction deficiencies required by 10 CFR § 50.55(e)(1), and licensee's report of theft or attempted theft of special nuclear material required by 10 CFR § 70.52. Other Commission regulations provide for receipt of various kinds of requests or information. For example, 10 CFR § 2.802 provides for petitions to issue, amend or rescind regulations, and 10 CFR § 19.16 provides for notifications from workers in regard to radiological hazards. These communica-

tions from licensees and the public are methods of securing information concerning the implementation effectiveness of Commission regulations. This information is an essential ingredient of sound regulation. The regulations in Part 21 add another required notification. Moreover, a longstanding Commission policy encourages individuals not subject to the Commission's regulations to report to the Commission a known or suspected defect or failure to comply; as authorized by law, the identity of anyone so reporting will be withheld from disclosure.

The Commission intends to examine closely the implementation of new Part 21 with a view to making any clarifying or other changes that may be warranted in light of experience. In particular, insufficient experience has been accumulated to permit the writing of a detailed regulation at this time that would provide a precise correlation of all factors pertinent to the question of what is a significant safety hazard. Part 21 is intended in this regard as an initial effort to identify a number of the factors involved with the question of significant safety hazard. Further, additional guidance in the form of regulatory guides may be developed should experience with the application of Part 21 indicate the need for such guidance. In this regard, we expect that the implementation efforts of the staff and those subject to the rule, and the views of interested members of the public, should provide the necessary data base for such further guidance.

During the development of the Energy Reorganization Act, Congress identified a need for an effective means to "anticipate problems before the event." Section 206 was developed to fill that need.

Interested persons have been afforded an opportunity to participate in the development of Part 21 and the associated amendments. The more important changes made to Part 21 are listed below and are based largely on consideration of public comments.

(1) The individuals subject to the notification requirement of Part 21 have been restricted to (a) directors and (b) officers vested with executive authority over activities subject to this part. These individuals may identify an individual that is authorized to provide notification to the Commission.

This new part is only one of many of the reporting channels that concerns defects or noncompliance, e.g., 10 CFR 50.55(e). Individuals that are subject to the requirements of this part that become aware of a defect or noncompliance that is outside the responsibility of their organization and individuals that are not subject to the requirements of any part of Title 10 are encouraged, but not required, to report to the Commission known or suspected defects or failure to comply. As authorized by law, the identity of anyone so reporting will be withheld from disclosures.

(2) Part 21, as adopted, does not specify whether firms may reimburse directors or responsible officers for civil penalties imposed pursuant to these regulations, and instead allows this question

to be resolved in accordance with applicable state law.¹

(3) The definition of "defect," as applied to components themselves, has been restricted to include those deviations in delivered components from technical requirements included in the procurement document that could, on the basis of an evaluation, create a substantial safety hazard. Defect also includes a deviation in a portion of the facility subject to the construction permit or manufacturing licensing requirement of Part 50 provided the deviation could, on the basis of an evaluation, create a substantial safety hazard and the portion of the facility containing the deviation has been offered to the purchaser for acceptance. Whether such deviation could result in a substantial safety hazard is determined during the deviation evaluation. Defect also includes, for facilities licensed for operation under Part 50, any condition or circumstance involving a basic component that could contribute to the exceeding of a safety limit as set forth in the operating license technical specifications.

(4) The definition of basic components has been divided into two parts: one part is applicable to power reactors licensed under Part 50 and the second part is applicable to activities licensed pursuant to Parts 30, 40, 70 or 71 and to other Part 50 facilities. For power reactors the definition is based on the guidance given in Regulatory Guide 1.29. For other facilities and activities, basic component has been defined as components that are directly procured by a licensee.

(5) Substantial safety hazard has been defined in terms of a major reduction in the degree of protection provided to the public health and safety. Criteria that are appropriate for determination of creation of a substantial safety hazard include:

Moderate exposure to, or release of, licensed material.

Major degradation of essential safety-related equipment.

¹ While agreeing with all other aspects of this Notice, Commissioner Gillinsky believes firms should be barred from reimbursing directors or responsible officers for civil penalties imposed pursuant to Part 21, on grounds that Section 206 of the Energy Reorganization Act is designed to impose personal responsibility, a goal undermined by corporate indemnification. The Commission majority believes that, in accordance with the general practice of federal regulatory bodies in analogous matters, the question of the reimbursability of such penalties should be governed by applicable state law. It notes that the adverse publicity attendant on being subjected to a civil penalty for knowingly concealing significant safety information would be a major incentive to compliance, irrespective of whether the person so penalized was later reimbursed by the company. The majority also recognizes the serious practical difficulty in attempting to differentiate between a properly awarded salary increase or bonus and an improper reimbursement. If Part 21 does not in practice appear to be accomplishing its purpose, the Commission will, of course, propose changes deemed appropriate in light of experience.

Major deficiencies involving design, construction, inspection, test or use of licensed facilities or material.

To the extent that failures to comply or defects in a security system can contribute to a substantial safety hazard, such failures and defects are within the scope of Part 21.

(6) Clarification has been added in regard to which organizations are subject to the regulations in this part. In order that the implementation of Section 206 may be responsive to anticipation of problems before the event, a broad interpretation of "firm constructing, owning, operating or supplying the components" has been used. This interpretation includes not only licensees and organizations that physically construct facilities and physically supply components but also includes organizations that only supply safety-related services such as design, inspection, testing or consultation; e.g., site geological investigations.

This interpretation is intended to bring within the regulations in this part those various organizations that can create a substantial safety hazard considering the various methods available for consultation, procurement, design, construction, testing, inspection and operation. These methods include not only the option where design and construction are accomplished by one organization but also the option where one organization does safety-related consultation, another safety-related design and another the actual construction. Each of these organizations has the capability to generate a defect and a potential for failing to comply.

If a basic component is fabricated by one organization using a design from another organization, the possibility of creating a substantial safety hazard, based upon a faulty design, exists upon the delivery of the design that fails to comply or contains a defect. A substantial safety hazard, based upon faulty fabrication, exists upon delivery of the item that fails to comply or contains a defect. In many instances the competent fabricating organization possesses neither the capability nor the responsibility for design.

It is realized that during the activities of design and consultation there may be a stage of conceptual design or consultation in regard to feasibility. Only when such a design or consultation can result in the creation of a substantial safety hazard is it appropriate to specify the applicability of Part 21 in the procurement document.

(7) The organizations subject to this part must establish procedures to provide for correction of deviations, or evaluation of deviations or informing purchasers of the deviation so the purchaser may evaluate the deviation. These procedures must also provide for informing a responsible officer or director of the organization of any resulting defect or failure to comply.

(8) The provisions of Part 21 imposing requirements that procurement documents state, when applicable, that Part 21 applies would be applicable only to future procurements of facilities,

components or services; i.e., procured on or after six months after the effective date of Part 21.

The effective date of § 21.6 dealing with posting requirements, § 21.21(a) dealing with adopting procedures, and § 21.51 dealing with maintenance of records has been deferred until January 6, 1978, to allow organizations to establish and implement procedures.

(9) The organizations subject to the regulations in Part 21 are required to prepare records in connection with their activities to assure compliance with this part. Prior to destruction of such records they shall be offered to the purchaser. It is not anticipated that these documentation requirements will necessitate any change in the documentation procedures of organizations that are presently complying with 10 CFR 50 Appendix B, "Quality Assurance Criteria."

(10) Clarification has been added in regard to the applicability of Part 21 to the licensed activity of exporting. Persons who are only licensed to export nuclear facilities or materials and who do not otherwise construct or operate facilities or activities or supply components are not subject to the new part. Individuals subject to this part need report only defects or failures to comply which could create a substantial safety hazard in facilities and activities within the United States. Further, any notification submitted in accordance with Part 21 may be exempt from public disclosure as authorized by law.

After consideration of the comments received and other factors, the Commission has adopted the amendments to Parts 2, 31, 34, 35, 40, and 70, and the new Part 21 set forth below.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following new Part 21 of Title 10, Chapter 1 of the Code of Federal Regulations, and amendments to Parts 2, 31, 34, 35, 40, and 70 are published as a document subject to codification to be effective on July 6, 1977.

PART 2—RULES OF PRACTICE

Paragraph (b) of § 2.200 is amended to read as follows:

§ 2.200 Scope of subpart.

(b) This subpart also prescribes the procedures in cases initiated by the staff to impose civil penalties pursuant to section 234 of the Act and section 206 of the Energy Reorganization Act of 1974.

2. A new Part 21 is added to read as follows:

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

GENERAL PROVISIONS

Sec.	
21.1	Purpose.
21.2	Scope.
21.3	Definitions.
21.4	Interpretations.
21.5	Communications.
21.6	Posting requirements.
21.7	Exemptions.

NOTIFICATION

- 21.21 Notification of failure to comply or existence of a defect.

PROCUREMENT DOCUMENTS

- 21.31 Procurement documents.

INSPECTIONS, RECORDS

- 21.41 Inspections.
21.51 Maintenance of records.

ENFORCEMENT

- 21.61 Failure to notify.

AUTHORITY: Sec. 161, Pub. L. 83-703, 68 Stat. 948; sec. 234, Pub. L. 91-161, 83 Stat. 444; sec. 206, Pub. L. 93-438, 88 Stat. 1246 (42 U.S.C. 2201, 2232, 5846).

GENERAL PROVISIONS

§ 21.1 Purpose.

The regulations in this part establish procedures and requirements for implementation of section 206 of the Energy Reorganization Act of 1974. That section requires any individual director or responsible officer of a firm constructing, owning, operating or supplying the components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, who obtains information reasonably indicating: (a) That the facility, activity or basic component supplied to such facility or activity fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards or (b) that the facility, activity, or basic component supplied to such facility or activity contains defects, which could create a substantial safety hazard, to immediately notify the Commission of such failure to comply or such defect, unless he has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

§ 21.2 Scope.

The regulations in this part apply, except as specifically provided otherwise in Parts 31, 34, 35, 40, or 70 of this chapter, to each individual, partnership, corporation, or other entity licensed pursuant to the regulations in this chapter to possess, use, and/or transfer within the United States source, byproduct and/or special nuclear materials, or to construct, manufacture, possess, own, operate and or transfer within the United States, any production or utilization facility, and to each director (see § 21.3(f)) and responsible officer (see § 21.3(j)) of such a licensee. The regulations in this part apply also to each individual, corporation, partnership or other entity doing business within the United States, and each director and responsible officer of such organization, that constructs (see § 21.3(c)) a production or utilization facility licensed for manufacture, construction or operation (see § 21.3(h)) pursuant to Part 50 of this chapter or supplies (see § 21.3(i)) basic components (see § 21.3(a)) for a facility or activity licensed, other than for export, under Parts 30,

40, 50, 70, or 71. Nothing in these regulations should be deemed to preclude an individual not subject to the regulations in this part from reporting to the Commission a known or suspected defect or failure to comply and, as authorized by law, the identity of anyone so reporting will be withheld from disclosure.²

§ 21.3 Definitions.

As used in this part, (a) "Basic component," when applied to nuclear power reactors means a plant structure, system, component or part thereof necessary to assure (1) the integrity of the reactor coolant pressure boundary, (2) the capability to shut down the reactor and maintain it in a safe shutdown condition, or (3) the capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 100.11 of this chapter: "Basic component," when applied to other facilities and when applied to other activities licensed pursuant to Parts 30, 40, 50, 70 or 71 of this chapter, means a component, structure, system, or part thereof that is directly procured by the licensee of a facility or activity subject to the regulations in this part and in which a defect (see § 21.3(d)) or failure to comply with any applicable regulation in this chapter, order, or license issued by the Commission could create a substantial safety hazard (see § 21.3(k)). In all cases "basic component" includes design, inspection, testing, or consulting services important to safety that are associated with the component hardware, whether these services are performed by the component supplier or others.

(b) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(c) "Constructing" or "construction" means the design, manufacture, fabrication, placement, erection, installation, modification, inspection, or testing of a facility or activity which is subject to the regulations in this part and consulting services related to the facility or activity that are important to safety.

(d) "Defect" means:

(1) A deviation (see § 21.3(e)) is a basic component delivered to a purchaser for use in a facility or an activity subject to the regulations in this part if, on the basis of an evaluation (see § 21.3(g)), the deviation could create a substantial safety hazard; or

(2) The installation, use, or operation of a basic component containing a defect

² NRC Regional Offices will accept collect telephone calls from individuals who wish to speak to NRC representatives concerning nuclear safety-related problems. The location and telephone numbers (for nights and holidays as well as regular hours) are listed below:

Region:	
I (Philadelphia).....	(215) 337-1150
II (Atlanta).....	(404) 221-4503
III (Chicago).....	(312) 858-2660
IV (Dallas).....	(817) 334-2841
V (San Francisco).....	(415) 488-3141

as defined in paragraph (d)(1) of this section; or

(3) A deviation in a portion of a facility subject to the construction permit or manufacturing licensing requirements of Part 50 of this chapter provided the deviation could, on the basis of an evaluation, create a substantial safety hazard and the portion of the facility containing the deviation has been offered to the purchaser for acceptance; or

(4) A condition or circumstance involving a basic component that could contribute to the exceeding of a safety limit, as defined in the technical specifications of a license for operation issued pursuant to Part 50 of this chapter.

(e) "Deviation" means a departure from the technical requirements included in a procurement document (see § 21.3(i)).

(f) "Director" means an individual, appointed or elected according to law, who is authorized to manage and direct the affairs of a corporation, partnership or other entity. In the case of an individual proprietorship, "director" means the individual.

(g) "Evaluation" means the process accomplished by or for a licensee to determine whether a particular deviation could create a substantial safety hazard.

(h) "Operating" or "operation" means the operation of a facility or the conduct of a licensed activity which is subject to the regulations in this part and consulting services related to operations that are important to safety.

(i) "Procurement document" means a contract that defines the requirements which facilities or basic components must meet in order to be considered acceptable by the purchaser.

(j) "Responsible officer" means the president, vice-president or other individual in the organization of a corporation, partnership, or other entity who is vested with executive authority over activities subject to this part.

(k) "Substantial safety hazard" means a loss of safety function to the extent that there is a major reduction in the degree of protection provided to public health and safety for any facility or activity licensed, other than for export, pursuant to Parts 30, 40, 50, 70 and 71.

(l) "Supplying" or "supplies" means contractually responsible for a basic component used or to be used in a facility or activity which is subject to the regulations in this part.

§ 21.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 21.5 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be addressed to the Director,

Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or to the Director of a Regional Office at the address specified in Appendix D of Part 20 of this chapter. Communications and reports also may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C.; at 7920 Norfolk Avenue, Bethesda, Md.; or at a Regional Office at the location specified in Appendix D of Part 20 of this chapter.

§ 21.6 Posting requirements.

Each individual partnership, corporation or other entity subject to the regulations in this part, shall post current copies of the following documents in a conspicuous position on any premises, within the United States where the activities subject to this part are conducted (1) the regulations in this part, (2) Section 206 of the Energy Reorganization Act of 1974, and (3) procedures adopted pursuant to the regulations in this part.

If posting of the regulations in this part or the procedures adopted pursuant to the regulations in this part is not practicable, the licensee or firm subject to the regulations in this part may, in addition to posting section 206, post a notice which describes the regulations/procedures, including the name of the individual to whom reports may be made, and states where they may be examined.

The effective date of this section has been deferred until January 6, 1978.

§ 21.7 Exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

NOTIFICATION

§ 21.21 Notification of failure to comply or existence of a defect.

(a) Each individual, corporation, partnership or other entity subject to the regulations in this part shall adopt appropriate procedures to (1) provide for (i) evaluating deviations or (ii) informing the licensee or purchaser of the deviation in order that the licensee or purchaser may cause the deviation to be evaluated unless the deviation has been corrected; and (2) assure that a director or responsible officer is informed if the construction or operation of a facility, or activity, or a basic component supplied for such facility or activity:

(i) Fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order or license of the Commission relating to a substantial safety hazard, or

(ii) Contains a defect. The effective date of this paragraph has been deferred until January 6, 1978.

(b) (1) A director or responsible officer subject to the regulations of this part or a designated person shall notify the Commission when he obtains information

reasonably indicating a failure to comply or a defect affecting (i) the construction or operation of a facility or an activity within the United States that is subject to the licensing requirements under Parts 30, 40, 50, 70 or 71 and that is within his organization's responsibility or (ii) a basic component that is within his organization's responsibility and is supplied for a facility or an activity within the United States that is subject to the licensing requirements under Parts 30, 40, 50, 70 or 71. The above notification is not required if such individual has actual knowledge that the Commission has been adequately informed of such defect or such failure to comply.

(2) Initial notification required by this paragraph shall be made within two days following receipt of the information. Notification shall be made to the Director, Office of Inspection and Enforcement, or to the Director of a Regional Office. If initial notification is by means other than written communication, a written report shall be submitted to the appropriate Office within 5 days after the information is obtained. Three copies of each report shall be submitted to the Director, Office of Inspection and Enforcement.

(3) The written report required by this paragraph shall include, but need not be limited to, the following information, to the extent known:

(i) Name and address of the individual or individuals informing the Commission.

(ii) Identification of the facility, the activity, or the basic component supplied for such facility or such activity within the United States which fails to comply or contains a defect.

(iii) Identification of the firm constructing the facility or supplying the basic component which fails to comply or contains a defect.

(iv) Nature of the defect or failure to comply and the safety hazard which is created or could be created by such defect or failure to comply.

(v) The date on which the information of such defect or failure to comply was obtained.

(vi) In the case of a basic component which contains a defect or fails to comply, the number and location of all such components in use at, supplied for, or being supplied for one or more facilities or activities subject to the regulations in this part.

(vii) The corrective action which has been, is being, or will be taken; the name of the individual or organization responsible for the action; and the length of time that has been or will be taken to complete the action.

(viii) Any advice related to the defect or failure to comply about the facility, activity, or basic component that has been, is being, or will be given to purchasers or licensees.

(4) The director or responsible officer may authorize an individual to provide the notification required by this paragraph, provided that, this shall not relieve the director or responsible officer

of his or her responsibility under this paragraph.

(c) Individuals subject to paragraph (b) may be required by the Commission to supply additional information related to the defect or failure to comply.

PROCUREMENT DOCUMENTS

§ 21.31 Procurement documents.

Each individual, corporation, partnership or other entity subject to the regulations in this part shall assure that each procurement document for a facility, or a basic component issued by him, her or it on or after January 6, 1978 specifies, when applicable, that the provisions of 10 CFR Part 21 apply.

INSPECTIONS, RECORDS

§ 21.41 Inspections.

Each individual, corporation, partnership or other entity subject to the regulations in this part shall permit duly authorized representatives of the Commission, to inspect its records, premises, activities, and basic components as necessary to effectuate the purposes of this part.

§ 21.51 Maintenance of records.

(a) Each licensee of a facility or activity subject to the regulations in this part shall maintain such records in connection with the licensed facility or activity as may be required to assure compliance with the regulations in this part.

(b) Each individual, corporation, partnership, or other entity subject to the regulations in this part shall prepare records in connection with the design, manufacture, fabrication, placement, erection, installation, modification, inspection, or testing of any facility, basic component supplied for any licensed facility or to be used in any licensed activity sufficient to assure compliance with the regulations in this part. After delivery of the facility or component and prior to the destruction of the records relating to evaluations (see § 21.3(g)) or notifications to the Commission (see § 21.21), such records shall be offered to the purchaser of the facility or component. If such purchaser determines any such records:

(1) Are not related to the creation of a substantial safety hazard, he may authorize such records to be destroyed, or

(2) Are related to the creation of a substantial safety hazard, he shall cause such records to be offered to the organization to which he supplies basic components or for which he constructs a facility or activity.

If such purchaser is unable to make the determination as required above then the responsibility for making the determination shall be transferred to the individual, corporation, partnership, or other entity subject to the regulations in this part that issued the procurement document to the purchaser. In the event that the determination cannot be made at that level then the responsibility shall be transferred in a similar manner to another individual, corporation, partner-

ship, or other entity subject to the regulations in this part, until, if necessary, the licensee shall make the determination.

(c) Records that are prepared only for the purpose of assuring compliance with the regulations in this part and are not related to evaluations or notifications to the Commission may be destroyed after delivery of the facility or component.

(d) The effective date of the section has been deferred until January 6, 1978.

ENFORCEMENT

§ 21.61 Failure to notify.

Any director or responsible officer subject to the regulations in this part who knowingly and consciously fails to provide the notice required by § 21.21 shall be subject to a civil penalty in an amount not to exceed \$5,000 for each failure to provide such notice and a total amount not to exceed \$25,000 for all failures to provide such notice occurring within any period of thirty consecutive days. Each day of failure to provide the notice required by § 21.21 shall constitute a separate failure for the purpose of computing the applicable civil penalty.

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B-180225 (EO 446).

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

§§ 31.2, 31.5, 31.7, 31.8, 31.10, and 31.11 [Amended]

3. In 10 CFR Part 31, § 31.2(a) is amended by changing the words "Parts 19, 20, and 36" to read "Parts 19, 20, 21, and 36."

4. In 10 CFR Part 31, §§ 31.5(c)(10), 31.7(b), 31.8(c), 31.10(b)(3), and 31.11 (f) are amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

§ 34.31 [Amended]

5. In 10 CFR Part 34, § 34.31(a)(2) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

§ 35.31 [Amended]

6. In 10 CFR Part 35, § 35.31(e) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

PART 40—LICENSING OF SOURCE MATERIAL

§§ 40.22 and 40.25 [Amended]

7. In 10 CFR Part 40, § 40.22(b) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

8. In 10 CFR Part 40, § 40.25(e) is amended by changing the words "Part 20" to read "Parts 20 and 21."

PART 70—SPECIAL NUCLEAR MATERIAL

§ 70.19 [Amended]

9. In 10 CFR Part 70, § 70.19(c) is amended by changing the words "Parts 19 and 20" to read "Parts 19, 20, and 21."

Dated at Washington, D.C., this 1st day of June 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

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