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 an adequate supply of new placards will 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 amendment, 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, 1808; 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-ELERIE - LV - NH - NYC - PC - P&E - PRR-RDG-TOC.

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

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

The Pittsburgh and Lake Erie Railroad Company. Reporting Marks: P&LE.

Western Maryland Railway Company.[1] Reporting 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 utilization and the efficiency of railroad operations, 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 Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, 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 mechanical 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 Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; 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. Member Robert S. Turkington not participating.

ROBERT L. OSWALD,
Secretary.

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

[1] Addition.

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 Commission.

ACTION: Final rule.

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

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 22, 1973, the Interstate Commerce Commission instituted Ex Parte No. MC 88, Detention of Motor Vehicles—Nationwide, by publishing as a proposed 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 contained 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 additional 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 exceed 120 minutes" at the end of the sentence comprising section 4(b). The third change is the addition of the following words to section 4(b) after "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)."

The fourth and fifth differences between the prior rules and the final rules appear in the portion of the rules entitled (2) "Detention—vehicles without power units spotting or dropping of trailers." The fourth change is in Section 2, Definitions, at paragraph (a), 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 Section 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 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 expiration of the 24 hours of free time, detention charges will accrue 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 following rules apply to all shipments except shipments of household goods; commodities transported in bulk in tank truck, dump trucks, vehicles pneumatically unloaded and other self-unloading mechanized vehicles; heavy and specialized commodities or articles requiring special equipment or handling outside the scope of the certificates of general-commodities 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 consignees 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—Vehicles With Power Units" and all such carriers engaging in the practice of spotting shall also publish the below rule entitled "Detention—Vehicles Without Power Units." The wording of the following rules may not be varied except where clearly warranted by exceptional circumstances, 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 designated by them, or as close thereto as conditions will permit, subject to the following 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

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,[1] 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 carriers 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: (i) To request that the vehicle without power remain at its premises subject to the provisions of section 4(d); or

(ii) 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):

	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 consigner, 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 unaccompanied 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 elasped.

(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 item [1].

(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 subtier suppliers 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 communications 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.

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.

[1] While agreeing with all other aspects of this Notice, Commissioner Gilinsky 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.

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, 2282, 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(l)) 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.[1]

§ 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 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,

[1] 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) 486-3141

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 (RO 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.

[FR Doc.77-15987 Filed 6-3-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1065]

[Docket No. AO-86-A37]

MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends the date for filing exceptions to a recommended decision concerning a proposed amended order regulating the handling of milk in the Nebraska-Western Iowa marketing area. An interested party requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before June 20, 1977.

ADDRESS: Exceptions should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing, issued September 15, 1976; published September 20, 1976; (41 FR 40495).

Notice of extension of time for filing briefs, issued November 12, 1976; published November 17, 1976 (41 FR 50696).

Recommended decision, issued May 10, 1977; published May 16, 1977 (42 FR 24744).

Notice is hereby given that the time for filing exceptions to the above listed recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is hereby extended to June 20, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on June 2, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-16005 Filed 6-3-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 77-SW-4]

AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to revise AD 77-10-05 to require installation of the Blade Inspection System (BIS) in accordance with newly revised procedures and instructions contained in Bell Helicopter Textron Service Instruction No. 212—61, Revision No. 2, dated March 28, 1977. These revised procedures and instructions relocate the BIS conductive paint to improve detection of cracks in the blade retention area.

DATES: Comments must be received by July 2, 1977. Proposed effective date of the AD will be August 15, 1977.

ADDRESS: Send comments on this proposal in triplicate to: Regional Counsel, ASW-7, Attn. Docket 77-SW-4, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number 817-624-4911, Extension 516.

SUPPLEMENTARY INFORMATION: Amendment 39-2893 (42 FR 10853), AD 77-10-5, effective June 12, 1977, requires frequent inspections of certain Bell Model 212 main rotor blades and provides for installtion of the BIS in accordance with prescribed procedures. After preparation and publication of the amendment, Bell issued Service Bulletin No. 212-77-10 dated April 28, 1977, to improve detection of cracks in the blade retention area by relocating the BIS conductive paint in the blade retention area as prescribed in Revision 2 of Bell Service Instruction No. 212-61.

A few cases of blade cracks have occurred in the blade retention area. Therefore, the agency proposes to add an additional paragraph to AD 77-10-5 requiring compliance with Revision 2 of Bell Service Instruction No. 212-61 for those blades identified in Bell Service Bulletin No. 212-77-10 that have the BIS installed. Compliance will be required within 300 hours' time in service after the effective date of the AD revision. The agency notes that the BIS may be installed for an alternate inspection means of AD 77-10-5.

Interested persons are invited to participate in the development of the final rule by submitting written and oral comments as they desire. All comments will be recorded and considered by the Director before taking final action, and the proposal may be changed as a result of the comments received. All comments will be available for examination before and after the closing date for comments in the Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

DRAFTING INFORMATION

The principal authors of this document are James H. Major, Aerospace Engineer, Flight Standards Division, and James O. Price, General Attorney, Southwest Region, FAA.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-2893, (42 FR 10853) AD 77-10-05, by adding a new paragraph as follows:

(g) Within 300 hours' blade time in service, after August 15, 1977, modify BIS installations on all main rotor blades, P/N 204-012-001 -23 and -29 and blades P/N 204-012-001-33, S/N's A2-04012, A2-04037 through A2-04042, A2-04045, A2-04046, A2-04134 through A2-04138, A2-04347, A2-04359, A2-04387, A2-04389, A2-04397, A2-04398, A2-04404 through A4-04411, A2-04455, A2-04457, AMR-04001 through AMR-04011, AMR-04013 through AMR-04015, AMR-04017 through AMR-04020, AMR-04023, AMR-04026, AMR-04030, and AMR-54001 through AMR-54011 to comply with Revision 2 of Bell Service Instruction No. 212-61, 204-32, or 205-45, revision of March 28, 1977, or later approved revision.

NOTE.—Bell Service Bulletin No. 212-77-10 contains these blades and serial numbers.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c)), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring prep-

aration of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Forth Worth, Texas, on May 25, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-15865 Filed 6-3-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[EDR-327; Docket No. 30460;
Dated: May 31, 1977]

CURRENCY EXCHANGE CONDITIONS

Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This Advance Notice of Proposed Rulemaking is being issued to solicit participation by the public and interested government agencies in the Board's consideration of a proposal to adopt rules designed to alleviate the currency exchange problems of U.S. flag carriers in foreign countries. The proposal was suggested by the Air Transport Association, a trade association of various U.S. scheduled air carriers.

DATES: Comments must be received on or before July 21, 1977.

ADDRESSES: Comments should be sent to Docket 30460, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as received.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Babcock, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: The Air Transport Association of America (ATA) on behalf of certain air carriers,[1] filed a petition of rulemaking, dated February 10, 1977, proposing new rules, under Part 213 of the Regulations, dealing with currency exchange restrictions imposed by foreign governments. The ATA proposal would empower the Board, subject to presidential approval, to require foreign air carriers to establish escrow accounts in dollars in the United States in cases where U.S. air carriers are unable to obtain foreign currency exchange and remittances in the countries of such foreign carriers for a period of 30 days. The amount required for the escrow account would be the dollar equivalent of the unremitted funds of U.S. carriers held by the foreign country for longer than 30 days. Additional funds would be required for the account, or escrowed funds would be released, so as to maintain an equivalent balance with the delayed foreign remittances of the U.S. air carriers. ATA also recommends that provisions be adopted for the escrow sums to be transferred to the affected U.S. carrier. The remittance claims of that carrier would then be transferred to the foreign carrier whose funds are in escrow, thereby accomplishing an informal currency exchange. Finally ATA suggests that the Board consider requiring certain foreign air carriers to sell tickets in the United States only through general sales agencies so as to offset any similar restrictions on U.S. carriers' ability to engage in direct sales to the public in the country of a particular foreign carrier.

As an appendix to its petition, ATA enclosed a copy of a letter which it had sent to the Department of the Treasury, dated September 13, 1976, explaining the problem, and requesting the Department's assistance, as well as its views on the ATA proposal to the Board. Also enclosed, was the response from the Treasury Department, dated November 19, 1976, which stated that this particular problem is being discussed in the various international financial and economic organizations in which the U.S. participates, as well as in bilateral meetings with other governments. The Treasury Department stated that it believes that the objective of ATA can be better achieved through negotiation to obtain overall reduction in restrictions, rather than by retaliatory restrictions imposed by the United States.

ATA argues that there are several types of currency exchange problems encountered by the U.S. carriers which have been occurring over the past several years, and which have not been solved. Some foreign countries impose a flat prohibition on all sales in local currency, or a limitation on sales in local currency to the amount of local expenses. Other countries require that the passenger obtain formal government approval for the purchase of transportation in local currency from U.S. carriers. According to ATA, many countries have also created long delays in the processing and approval of remittance applications of U.S. carriers. This delay often results in the U.S. carriers incurring a considerable loss from the often rapid devaluation of the currency in these countries, as well as from the diversion of large amounts of capital needed by the carriers for operating expenses. This impoundment of capital often forces the carriers to obtain high interest loans to cover these expenses. Foreign air carriers operating in the United States encounter none of these problems. Their currency transfers are free from any governmental interference by the U.S. government. This disparity, contends ATA, is discriminatory and places the U.S. carriers in an unfair competitive position with the foreign carriers.

ATA urges that its proposed action is appropriate particularly in light of the International Air Transportation Fair Competitive Practices Act of 1974 (FCPA) (49 U.S.C. 1159b; 88 Stat. 2102), which directs the Board, as well as other federal agencies, to take appropriate action within its jurisdiction to eliminate all forms of discrimination or unfair competitive practices to which U.S. air carriers are subject in providing foreign air transportation. Accordingly, argues ATA, the Board should condition the permits of foreign air carriers, pursuant to section 402(e) of the Federal Aviation Act, so as to bring about an equitable competitive balance between the U.S. and foreign carriers.

A statement supporting the petition was filed by Senator James B. Pearson. No other responsive pleadings were received.

The U.S. Government has heretofore, on several occasions, found it necessary to take action in accordance with the FCPA in regard to currency exchange problems experienced by the U.S. carriers in several countries.[2] Thus it is clear that serious problems have existed with respect to currency exchange of U.S. carriers.

Upon consideration of the ATA petition, and of the seriousness of the problem as well as its complexity, the Board has decided to issue this Advance Notice in order to elicit public comments, and to obtain necessary information for our guidance before determining whether any particular rules should be proposed. The petition of ATA does not provide examples of which countries are involved, the amounts of currency involved, or any specific facts concerning recent discriminatory practices. These facts are necessary for our consideration of this proposal. The Board agrees that appropriate measures should be taken to prevent discrimination against the U.S. carriers by foreign countries, but questions whether the ATA proposal of remedial measures is the best method to eliminate this problem. The Board is particularly interested in comments and views concerning the following seven points.

1. Would the proposed remedial measures, in contrast to diplomatic negotiations by the United States Government, be the best means to preclude such discriminatory practices in the foreign currency exchange area? Although negotiations have been partially successful in the past, it appears that this problem may be a continuing one, and may require measures in addition to negotiations.

2. If action is considered appropriate, should it be by procedures other than, or in addition to, rulemaking?

3. What has been the recent specific experience of the U.S. carriers as to the

[1] The air carriers joining in the ATA petition are as follows: Alaska Airlines, Aloha Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, The Flying Tiger Line, National Airlines, Northwest Airlines, Pan American World Airways, Trans World Airlines, Western Air Lines, and Wien Air Alaska.

[2] See, Civil Aeronautics Board FY 1976 Report to Congress, pp. 102-107.