

being in conflict with any provision of the Constitution of the United States or any provision of the Constitution of any state of the Union, or the provisions of any controlling federal or state statute, or any superior provisions of any federal regulations, Orders or Directive from another federal agency or Department), by any Court of competent jurisdiction of the United States or any state of the Union, or by a federal administrative agency or body of superior rank and authority to the Commission, each provision or section of this Part shall be deemed to be separate and apart from any other provision or Section of this Part. Thus, the declared invalidity or unconstitutionality of any such provision of any section of this Part (or of any Section of this Part in its entirety) shall not effect or taint the continuing validity and effectiveness of any and all remaining provisions and Sections of this Part.

APPENDIX A—CURRENT COMMISSION PROGRAMS COVERED BY THESE REGULATIONS

This Appendix sets forth the principal programs to which the Equal Employment Opportunity Commission provides Federal financial assistance, and which therefore are covered by these regulations. It is not intended to be all inclusive.

(1) *Contracts with State Fair Employment Practices Agencies:* The Commission has an ongoing contract program with a number of state and local fair employment practices agencies. Participating agencies receive funding from the Commission in exchange for their agreement to process a certain number of charges of discrimination per year and to improve their charge processing systems. This program strengthens and assists these agencies in carrying out their missions under their respective state or local fair employment practice laws. As a corollary, the Equal Employment Opportunity Commission receives a benefit in that it is able to avoid duplication in its own investigative efforts in cases investigated by the state or local agencies.

(2) *Attorney Loan Fund Program:* Under this program, the Commission makes limited funds available to private attorneys to help defray the plaintiff's costs in bringing litigation under Title VII of the Civil Rights Act of 1964, as amended. Attorneys are required to reimburse the loan fund if they prevail in the law suit and recover their costs.

(3) *Area Bar Center (ABAR) Program:* The Commission has recently instituted a program to establish and fund five "Area Bar Centers" (ABAR's). These centers, to be administered by non-profit and educational organizations, will provide technical assistance and training to attorneys representing plaintiffs in litigation brought under Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Equal Pay Act of 1963 and Section 501 of the Rehabilitation Act of 1973, as amended.

Such cooperative assistance is authorized by Section 705(g)(1) and 709(b) of Title VII of the Civil Rights Act of 1964 as amended, Section 42 U.S.C. 2000e-4(g)(1) and Section 2000e-8(b) respectively. Section 705(g)(1) of Title VII authorizes the Commission to carry forward the underlying purposes of the Title by utilizing state and regional agencies, both public and private, or individuals. Section 709(b) of Title VII specifically authorizes the Commission to cooperate with, share information with, and assist in every way state or local authorities established to foster and enforce the equal employment opportunity rights of all citizens guaranteed by Title VII.

[FR Doc. 79-36769 Filed 11-28-79; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 79-162]

Drawbridge Operation Regulations; Napa River, CA

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the California Department of Transportation (CALTRANS), the Coast Guard is considering changing the regulation for the Imola Avenue bridge across the Napa River, Napa, California to require six months' advance notice. This proposal is being made because of extremely infrequent requests for opening. This action will relieve the bridge owner of the burden of having a person readily available to open the draw while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before December 31, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Twelfth Coast Guard District, 630 Sansome Street, Room 932, San Francisco, CA 94126.

FOR FURTHER INFORMATION CONTACT: Wayne R. Till, Chief, Bridge Section, Twelfth Coast Guard District, 630 Sansome Street, Room 932, San Francisco, CA 94126 (415-556-8668).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Twelfth Coast Guard District, will evaluate all

comments received and decide on a final course of action. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Wayne R. Till, Project Manager, Chief, Bridge Section and Lieutenant Commander Richard E. Peyser, Project Attorney, Assistant Legal Officer, Twelfth Coast Guard District.

Discussion of the Proposed Regulations

This proposal is being considered because of infrequent requests for openings of the bridge. CALTRANS records indicate that the bridge has not been opened for the passage of vessels since 1976. It was opened once in 1976, ten times in one month during 1975 for a construction project, and once in 1973. Commercial vessels, with the exception of marine construction equipment, have ceased operations upstream of the bridge. Because of the 32-foot vertical clearance above Mean Lower Low Water provided by the closed bridge, the only non-commercial vessel operating upstream of the bridge which requires an opening is the sea scout ship #90. Even that vessel only needs openings at extremely high water stages. This proposal also contains some minor editorial changes. The Coast Guard feels this request may have merit and is hereby soliciting public comment.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by revising § 117.712(i) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.712 Tributaries of San Francisco Bay and San Pablo Bay, CA.

* * * * *

(i) *Mare Island Strait, Napa River, and their tributaries.* * * *

(3) Imola Avenue highway bridge at Napa. At least six months' advance notice required.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: November 19, 1979.

H. G. Holmgren,

Captain, U.S. Coast Guard, Commander (Acting), Twelfth Coast Guard District.

[FR Doc. 79-36766 Filed 11-28-79; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Government-furnished Headstone or Marker

AGENCY: Veterans Administration.

ACTION: Proposed Regulation Change.

SUMMARY: The Veterans Administration is proposing to increase the monetary allowance payable in lieu of a Government-furnished headstone or marker from \$50 to \$53. The need for this action results from the fact that the actual cost of a Government-furnished headstone or marker increased from \$50 to \$53. The effect of this proposed amendment would be to permit payment of up to \$53 in lieu of a Government-furnished headstone or marker.

DATES: Comments must be received on or before December 31, 1979. It is proposed to make this change effective October 1, 1979.

ADDRESSES: Send written comments to: Administrator of Veteran Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until January 8, 1980.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle Jr. (202-389-3005).

SUPPLEMENTAL INFORMATION: Under 38 CFR 3.1612 the Veterans Administration is authorized to pay a monetary allowance in lieu of furnishing a headstone or marker at Government expense under the provisions of 38 CFR 1.631(a)(2) and (b). The amount of the allowance is the lesser of the actual cost of acquiring a non-Government headstone or marker (or adding identifying information to an existing marker) or the average actual cost of a Government-furnished headstone or marker for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was furnished (or identifying information added). 38 CFR 3.1612(e)(2).

The average actual cost to the Veterans Administration of headstones and markers furnished at Government expense for fiscal year 1979 (October 1, 1978 through September 30, 1979) is \$53. Consequently, we are amending § 3.1612 to include this information.

The Veterans Administration does not consider this to be a significant proposal since no compliance burdens or costs are imposed.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objection regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 8, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 21, 1979.

By direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

In § 3.1612, paragraph (e)(2)(ii) is revised to read as follows:

§ 3.1612 Monetary allowance in lieu of a Government-furnished headstone or marker.

* * * * *

(e) Payment and amount of the allowance. * * *

(2) The amount of the allowance payable is the lesser of the following:

* * * * *

(ii) The average actual cost, as determined by the Veterans Administration, of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased or the services for adding the veteran's identifying information on an existing headstone or marker were purchased. The average actual cost of headstones and markers furnished at Government expense for fiscal year 1978 (October 1, 1977 through September 30, 1978) is \$50 and \$53 for fiscal year 1979 (October 1, 1978 through September 30, 1979).

* * * * *

(Veterans' Housing Benefits Act of 1978, Pub. L. 95-476; (38 U.S.C. 906(d)))

[FR Doc. 79-36799 Filed 11-28-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[FRL 1367-6; OPTS-62005 (PCB/RR-5)]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Clarification and Proposed Amendment on Hydraulic Machines

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment and notice of clarification.

SUMMARY: This notice clarifies which hydraulic machines are subject to the November 1, 1979 testing requirements of § 761.31(e) of the Polychlorinated Biphenyl (PCB) Manufacturing, Processing, Distribution in Commerce, and Use Prohibition Rule. The Agency is also proposing to amend the PCB Rule to require testing of some other types of hydraulic systems by forty-five (45) days after the rule becomes effective.

DATES: Written comments on the proposed amendment are requested and should be received no later than December 31, 1979. Requests to participate in the informal hearing should be received by the same date. The informal hearing, if requested, will be held in Washington, DC on January 20, 1980. The exact time and location of the hearing will be made available through the Industry Assistance Office which can be reached by calling the toll-free number (800) 424-9065 or 554-1404 for calls local to Washington, DC.

ADDRESSES: All comments should be sent to:

Document Control Officer, TS-793, US Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, Attention: Mrs. Joni T. Repasch.

Requests to participate in the informal hearing should be sent to:

Ms. Linda Thomson, Hearing Clerk, TS-794, US Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

All comments and requests to participate in the hearing should bear the control number OPTS-62005 (PCB/RR-5). The hearing, if requested, will be held in Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Mr. John Ritch, Director, Industry Assistance Office, TS-799, US Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, Phone toll free: 800-424-9065 [in Washington, DC, Call 554-1404].

SUPPLEMENTARY INFORMATION: Section 761.31(e) of the PCB Manufacturing,

Processing, Distribution in Commerce, and Use Prohibition Rule (44 FR 31514, May 31, 1979) regulates use of PCBs in hydraulic systems. EPA has received correspondence requesting an interpretation as to which PCB hydraulic systems are subject to the November 1, 1979 testing requirement established by § 761.31(e)(1). Although this section might be read to cover all hydraulic systems, a review of the preamble to the final rule, the support document, and the Economic Impact Analysis* (hereafter Versar Report) which accompanied the final rule, indicates that a narrower scope was intended. An analysis of these documents follows.

There is no definition of "hydraulic system" or "PCB hydraulic system" in the definition section of the rule. See § 761.2 (44 FR at 31543). However, the preamble notes that about 1750 hydraulic systems are expected to be affected by § 761.31(e). Specifically, the preamble states:

Owners of hydraulic systems with PCB-containing hydraulic fluid will have to test, drain, and refill these systems periodically. As many as 1750 systems including metal die-casting and foundry equipment are believed to be affected by the rule . . . 44 FR at 31540.

The Versar Report also discusses the estimated number of hydraulic systems and the gallons per system expected to be subject to § 761.31(e). The Versar Report states:

Total PCBs presently in use: Total capacity of all of the hydraulic systems that at one time used PCB based hydraulic fluids may be (700 die-casting machines × 400 gallons per machine + 1000 other systems × 350 gallons per system =) 630,000 gallons.

Versar Report at 90.

The Versar Report further discusses the number of affected systems as follows:

Identification of all systems that contained PCB hydraulic fluids will require the analysis of the fluid in many systems which might have contained PCBs. As many as 2500 die-casting machines (Versar, 1978, p. 75) and perhaps as many other hydraulic systems might have to be tested to identify the approximately 1700 systems which used PCB fluid and to evaluate the extent of contamination from the use of reclaimed fluid . . . Costs for the analysis program required . . . might total (1700 to 5000 systems × \$270 per sample =) \$460,000 to \$1,350,000.

Versar Report at 92 (emphasis added).

In view of the estimated numbers of affected hydraulic systems given in the preamble and Versar Report, the Agency clearly intended the regulation to apply only to hydraulic metal production and forming operations such as die-casting, and metal forging, foundry, and extruding systems that

once contained PCBs. If the regulation as it was written were now held to cover other hydraulic systems, such as forklift trucks, the estimated number of affected systems given in the preamble and Versar Report would be grossly inaccurate. In light of this analysis of the documentation for the PCB Rule, EPA interprets that the November 1, 1979 testing requirement of § 761.31(e)(1) is limited to hydraulic systems engaged in metal production and forming operations.

EPA, however, is aware that certain types of other hydraulic machines owned by metal production and forming operations, but not actually engaged in those operations, could contain PCBs as a result of previous servicing practices. These systems such as forklift trucks, elevator lifts, and loading dock levelers did not use PCB hydraulic fluid because this fluid is significantly more expensive than other readily available substitute hydraulic fluids. In addition, these systems did not need to use the high thermally stable PCB hydraulic fluid, a characteristic that made it preferable in the high temperature operations associated with the production and forming of metal. However, in some cases, persons in metal production and forming operations may have used PCB hydraulic fluid to top off other hydraulic machines such as forklift trucks, elevator lifts, and loading dock levelers when non-PCB hydraulic fluid was unavailable. EPA, therefore, is proposing to require in certain circumstances that each person who owns hydraulic systems other than those actually engaged in the production or forming of metal but located at the same facility, assume that all systems contain greater than 50 ppm PCB or test their systems for PCBs by 45 days after the rule becomes effective. Under this amendment, hydraulic systems such as forklifts would have to be tested if they are used at a facility which was or is now involved in metal production or forming operations and could have been topped off with PCBs. Testing would not be required where it is impossible to top off hydraulic systems with any hydraulic fluid without actually destroying the system. EPA has no reason to believe that such systems originally would have been filled with PCBs.

EPA is seriously considering permitting the use of sampling rather than requiring testing of all hydraulic systems. EPA requests comments on this possible option and welcomes suggestions on sampling methods. Commentors providing a sampling method should describe in detail the

rationale behind the method they prefer and identify and justify any variables that must be predefined.

Hydraulic fluid from hydraulic systems used metal production and forming operations and other hydraulic machines that have been tested and determined to contain 50 ppm or greater PCB must be disposed of in accordance with the regulation.

In light of these contemplated changes described above, EPA also has proposed a minor change to § 761.31(e)(3) to clarify that persons may not add PCBs to *any* hydraulic machine, not just those that are identified in § 761.31(e)(1) and (7).

The record in this rulemaking includes the rulemaking record for the 1979 PCB regulation (44 FR 31514, May 31, 1979). EPA has also received correspondence on the scope of § 761.31(e), and this correspondence has been placed in the record.

EPA requests comments on this proposed amendment and has identified below some pertinent questions.

(1) What percent of hydraulic systems other than metal producing or forming systems at these facilities are likely to contain PCBs at concentrations of greater than 50 ppm?

(2) How long will it take for a company to sample, test, and refill where appropriate these other hydraulic machines?

(3) How many other hydraulic machines do metal producing and forming facilities own to which PCBs could have been added? What is the cost anticipated per sample to analyze for PCBs? What is the anticipated cost of testing hydraulic machines at these facilities?

(4) Are there locations other than metal producing or forming facilities where hydraulic systems are likely to be contaminated with PCBs? If so, please describe those locations. In the event that other locations are identified, EPA may regulate them in this rulemaking.

EPA urges food and feed handling establishments to investigate the possibility that their hydraulic systems may be contaminated with PCBs, in light of recent incidents where food was found to be contaminated with PCBs. EPA has no precise information to indicate that food and feed handling establishments bought PCBs for use in their hydraulic systems; however, the possibility exists that PCBs might have been introduced into such systems. EPA encourages food and feed handling establishments, if they have any reason to believe that this kind of contamination might have occurred, to test their hydraulic systems for PCBs as soon as possible. Affected persons should also now review applicable requirements of the Food and Drug Administration. (See 21 CFR 109.15, 110.40(b), 509.15).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

*Versar, Inc., *PCB Manufacturing, Processing, Distribution in Commerce, and Use Bans Regulation: Economic Impact Analysis*, EPA 230-03/79-001, Springfield, Virginia, March 1979.

Statutory Authority: Section 6(e) of the Toxic Substances Control Act, 15 U.S.C. 2605. The preamble to the Manufacturing, Processing, Distribution in Commerce, and Use Prohibition Rule at 44 FR 31514 delegates authority to amend or modify this rule to the Assistant Administrator for Pesticides and Toxic Substances.

Dated November 22, 1979.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

It is proposed to amend 40 CFR 761.13 by revising the first sentence of paragraph (e)(1) and paragraph (e)(3) and by adding a new paragraph (e)(7) to read as follows:

§ 761.13 Authorizations.

* * * * *

(e) Use in Hydraulic Systems.

* * * * *

(1) Each person who owns a hydraulic system engaged in the production or forming of metal must test for the concentration of PCBs in the hydraulic fluid of each system by November 1, 1979, and at least annually thereafter. *

* * * * *

(3) Addition of PCBs to any hydraulic system is prohibited;

* * * * *

(7) Persons who own hydraulic systems other than those systems engaged in the production or forming of metal must assume that all their other hydraulic systems contain greater than 50 ppm PCB or test the other hydraulic systems (including such items as forklifts, elevators, and levelers) by [45 days after final rule becomes effective] if the hydraulic systems (A) could have been filled or topped off with PCB hydraulic fluid and (B) are being used at facilities which have or had PCB hydraulic systems engaged in the production or forming of metal. All systems that are tested under subparagraph (7) that have 50 ppm or

greater PCB are subject to the requirements of 761.31(e)(2).

[FR Doc. 79-36710 Filed 11-28-79; 8:45 am]

BILLING CODE 6560-01-M

VETERANS ADMINISTRATION

41 CFR Parts 8-7, 8-18

Construction Contracts

AGENCY: Veterans Administration.

ACTION: Proposed Regulatory Development.

SUMMARY: The Veterans Administration is proposing to amend its procurement regulations by revising two provisions relating to construction contracts. The first concerns the release of claims portions of the Payments clauses which are proposed to be revoked as being redundant to the Federal Procurement Regulations. The second concerns the policy on progress payments which is proposed to be changed to remove the mandate against retainage of a percentage of progress payments. That change restores the option of retainage or full payment to the contracting officer and conforms Veterans Administration practice to that of other Federal agencies.

DATES: Comments must be received on or before December 31, 1979. It is proposed to make this change effective 30 days after date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until January 8, 1980.

FOR FURTHER INFORMATION CONTACT: A. G. Vetter (202-389-2334).

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding these documents to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 8, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in

Central Office and furnished the above address and room number.

Approved: November 21, 1979.

By direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

1. In § 8-7.650-14, paragraphs (f) of the clauses in paragraphs (a) and (b) are revoked.

§ 8-7.650-14 Payments to contractors.

(a) For contracts that do not contain a section entitled "Network Analysis System (NAS), Clause 7, General Provisions, SF 23A," will be implemented as follows:

Payments to Contractors

* * * * *

(f) [Revoked]

(b) For contracts that contain a section entitled "Network Analysis System (NAS), Clause 7, General Provisions, SF 23A," will be implemented as follows

Payments to Contractors

* * * * *

(f) [Revoked]

§ 8-18.202 [Amended]

2. Section 8-18.202 is amended by deleting the reference "§ 8-2.203-1" in the last sentence.

§ 8-18.203-1 [Revoked]

3. Section 8-18.203-1 is revoked.

[36 U.S.C. 210 (c), 40 U.S.C. 486(c)]

[FR Doc. 79-36783 Filed 11-28-79; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Part 192

[Docket No. PS-60; Notice 1]

Transportation of Natural and Other Gas by Pipeline; Hot Taps in Gas Pipelines

AGENCY: Materials Transportation Bureau (MTB).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposed to amend § 192.627 to ensure that when pressurized gas pipelines are connected, they have their internal gas pressures positively ascertained by pressure gages prior to the final step of allowing gas to flow between them. This practice is intended to avoid accidents resulting from mistakenly connecting two lines of incompatible pressures.