Signed at Washington, D.C. on January 11, 1985.

Everett Rank,

Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 85-1410 Filed 1-16-85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ANM-21]

Establishment of Transition Area, Hailey, ID

Correction

In FR Doc. 85-326 appearing on page 726 in the issue of Monday, January 7, 1985, make the following correction:

In the second column, seventh line, "1984" should have read "1985".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[IA-952 File No. S7-7-84]

Amendment to Investment Adviser Recordkeeping Rule

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendment.

SUMMARY: The Commission is adopting an amendment to the recordkeeping rule under the Investment Advisers Act of 1940 to permit advisers to preserve required records on microfilm and in computer systems under certain conditions. The amendment would provide flexibility to advisers to determine the medium on which required records would be stored. Adoption of the amendment should result in cost savings to advisers using microfilm and computer recordkeeping systems.

EFFECTIVE DATE: January 17, 1985.

FOR FURTHER INFORMATION CONTACT: R. Michael Parker, Senior Compliance Examiner, (202) 272-2025 or Jay Gould, Attorney, (202) 272-2107, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In Investment Advisers Act Release No. 899 (February 15, 1984)[1] the Commission proposed an amendment to rule 204-2 [17 CFR 275.204-2], the recordkeeping rule under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 *et seq.*] the "Advisers Act"), relating to the preservation of required records. The amendment would permit immediate reliance by advisers on microfilm record storage by eliminating the requirement that advisers using microfilm record storage systems maintain hard copy originals for two years. The Commission also requested comment on whether to expand the amendment to permit advisers who maintain required records in computer systems to rely on computer storage systems, rather than on hard copy or microfilm, for compliance with rule 204-2. The release asked commentators to address a number of specific questions relating to the types of records which might be stored in computer systems and what safeguards might be necessary to maintain the integrity of records and the ability of the Commission to examine an adviser's records pursuant to section 204 of the Advisers Act. Commentators also were asked to assess the relative costs and benefits of permitting computer record storage and of the various safeguards which might be required.

Ten commentators, representing advisory firms, banks and trade associations, submitted their views on the proposal. The pertinent comments are discussed briefly below.

Commentators unanimously supported the amendment to permit immediate reliance on microfilm. Seven commentators also endorsed computer storage of records while one commentator expressed the view that microfilm storage was preferable to computer storage and another commentator believed it lacked sufficient experience with computer systems to provide comment. Generally, commentators addressing the issue of computer storage believed any Commission rule should permit advisers flexibility to devise computer storage systems which would be consistent with their operations and available technology and indicated that it should be the responsibility of the adviser to adopt appropriate measures to safeguard the integrity of computer-stored records and make them available to Commission examiners on request. Those commentators who responded to the question about duplicate computer tapes or disks believed a duplicate of the computer storage medium should be required although there was no consensus on whether off-site storage should be required or how frequently duplicates should be updated. Most commentators expressed the view that permitting computer storage could result in cost savings to advisers but did not attempt to quantify those savings.

The Commission has considered the issues raised by its proposal and the comments received, and has determined to adopt the amendment to permit immediate reliance on microfilm storage and to permit computer record storage under certain conditions. Adoption of the amendment makes the Advisers Act requirements with respect to microfilm storage consistent with recordkeeping rules adopted by the Commission for investment companies under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] and for brokers and dealers under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*]. Under the rule as amended, if the conditions relating to microfilm records are met, an adviser could immediately produce or reproduce records on microfilm and rely solely on the microfilm records for compliance with rule 204-2.

The amendment also would permit advisers to store certain records on computer tape or disk or other computer storage medium provided: (i) The records are arranged and indexed so as to permit their immediate location, (ii) printouts of the records or copies of the computer tape or disk are made available to Commission examiners promptly upon request, (iii) a duplicate of the computer storage medium is stored separately from the original, and (iv) the adviser maintains procedures for the maintenance, preservation of, and access to, records so as to reasonably safeguard records from loss, alteration or destruction.

The rule limits the types of records which can be stored in computer systems to those which exist in original form on a computer storage medium. Specifically, paragraph (g)(2) of the rule would permit computer storage of records which, in the ordinary course of the adviser's business, are created by the adviser on electronic media or are received by the adviser solely on electronic media or by electronic data transmission. The principal effect of this condition will be to require that communications in hard copy form sent or received by the adviser be retained in that form, except where the communications sent by the adviser are created on electronic media. This means, for example, that hard copies of correspondence sent by the adviser to clients would have to be retained unless the correspondence was created on word processing or other electronic media. Also, if an adviser receives confirmations of client trades by both electronic media and hard copy, the

[1] 49 FR 6746 (February 23, 1984).

hard copy confirmation would have to be retained.

Although the amendment requires the adviser to store a duplicate of the computer storage medium separately from the original, it does not require that the duplicate be stored off-site. The amendment also does not specify how frequently the duplicate should be updated to incorporate new records or what other specific safeguards should exist to protect the integrity of computer-stored records. Rather, as stated above, the amendment would require an adviser to maintain procedures so as to reasonably ensure that computer stored records are not altered, lost, or destroyed. The Commission believes that this approach is preferable in that it places the burden on an adviser to determine and maintain adequate safeguards. At the same time it avoids imposing specific requirements which, in some cases, might be unnecessarily restrictive or which might become outdated as newer technologies become available.

The amendment requires that advisers furnish printouts or copies of the computer tape or disk to Commission examiners promptly upon request but does not impose specific time limits. Commentators generally indicated that records should be furnished within 24 hours upon request and the Commission would expect that only in unusual circumstances would an adviser be permitted to delay furnishing these records for more than 24 hours. At the same time the Commission believes that in many cases, an adviser would be able to, and therefore would be required to, furnish records immediately or within a few hours of a request. The rule provides that examiners may request either printouts or copies of the computer storage medium. Because Commission examiners may begin to use portable computers in conducting examinations, in some cases it might facilitate the exam if Commission staff requested copies of the computer storage medium rather than printouts of information stored on that medium.

The amended rule would permit advisers who use computer systems in their operations to use their computer systems for record retention but it would not require them to do so. Advisers could continue to store required records in hard copy or on microfilm. The Commission wishes to emphasize that advisers storing records on microfilm or computer storage medium bear the responsibility for meeting all applicable conditions of the rule amendment. This means, for example, that an adviser using computer record storage in reliance on the rule must have computer capacity sufficient to produce promptly records requested by Commission examiners. Also, if the adviser discontinues use of its computer system or changes to a system which is not compatible with its previous system, the adviser must make adequate provisions to ensure that it can promptly make available to Commission examiners all required records.

The amendment will become effective January 17, 1985. The amendment relieves a restriction and the Commission finds that, because the amendment permits advisers greater flexibility in devising record retention systems, good cause exists to make it effective immediately.

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements, Securities.

Text of Amendment

Chapter II of Title 17 of the Code of Federal Regulations is hereby amended by revising paragraph (g) of § 275.204–2 as follows:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

§ 275.204–2 Books and records to be maintained by investment advisers.

* * * * *

(g)(1) The records required to be maintained and preserved pursuant to this rule may be immediately produced or reproduced by photograph on film or, as provided in paragraph (g)(2) of this section, on magnetic disk, tape or other computer storage medium, and be maintained and preserved for the required time in that form. If records are produced or reproduced by photographic film or computer storage medium, the investment adviser shall:

(i) arrange the records and index the films or computer storage medium so as to permit the immediate location of any particular record,

(ii) be ready at all times to provide, and promptly provide, any facsimile enlargement of film or computer printout or copy of the computer storage medium which the Commission by its examiners or other representatives may request,

(iii) store separately from the original one other copy of the film or computer storage medium for the time required,

(iv) with respect to records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records so as to reasonably safeguard records from loss, alteration, or destruction, and

(v) with respect to records stored on photographic film, at all times have available for Commission examination of its records pursuant to section 204 of the Investment Advisers Act of 1940, facilites for immediate, easily readable projection of the film and for producing easily readable facsimile enlargements.

(2) Pursuant to paragraph (g)(1) of this section an adviser may maintain and preserve on computer tape or disk or other computer storage medium records which, in the ordinary course of the adviser's business, are created by the adviser on electronic media or are received by the adviser solely on electronic media or by electronic data transmission.

* * * * *

Regulatory Flexibility Act Analysis

A Summary of the Initial Regulatory Flexibility Analysis which the Commission prepared in accordance with 5 U.S.C. 603 regarding the amendment to rule 204–2, was published in Investment Advisers Act Release No. 899. No comments were received on this analysis and the Commission has prepared a Final Regulatory Flexibility Act Analysis. Copies of the Final Regulatory Flexibility Analysis may be obtained by contacting R. Michael Parker or Jay Gould in the manner specified above.

Statutory Basis

The amendment adopted herein is adopted pursuant to the authority contained in sections 204 [15 U.S.C. 80b–4] and 211(a) [15 U.S.C. 80b–11(a)] of the Advisers Act.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–1425 Filed 1–16–85; 8:45 am]

BILLING CODE 8010–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1625 and 1627

Exemption for Bona Fide Executive or High Policymaking Employees

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Age Discrimination in Employment Act of 1967 contains an exemption for bona fide executives and high policymaking employees. On October 9, 1984, President Reagan signed the Older Americans Act Amendments of 1984. These

amendments contain a section that raised the retirement income level necessary for an employee to come within the exemption from $27,000 to $44,000 per year. This document amends the Commission's existing interpretations by substituting $44,000 for $27,000.

EFFECTIVE DATE: October 9, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Pagano or Stanley Kiszkiel, (202) 634-6592.

SUPPLEMENTARY INFORMATION: The Age Discrimination in Employment Act of 1967, as amended, prohibits, *inter alia*, mandatory retirement of employees under 70 years of age. Section 12(c) of the ADEA, however, contains an exception to this general prohibition. Section 12(c)(1) provided that:

> Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $27,000.

Section 802(c)(1) of the Older Americans Act Amendments of 1984, Pub. L. 98-459, amends section 12(c)(1) of the ADEA by raising the income level needed to come within the exemption from $27,000 to $44,000 per year.

The Commission has published an interpretation of section 12(c)(1) of the ADEA at 29 CFR 1625.12. In addition, the Commission has published a regulation at 20 CFR 1627.17 explaining how to calculate the amount of qualified retirement benefits for the purpose of applying the section 12(c)(1) exemption. This interpretation amends 29 CFR 1625.12 and 1627.17 by substituting the number $44,000 wherever $27,000 had appeared.

29 CFR 1625.12 is amended as follows. Subsection (a) is amended by inserting the number $44,000 where $27,000 appeared. Subsections (b), (c), (d)(1), (d)(2), (e), (f), (g), (h) and (i) are unchanged. Subsections (j)(1), (j)(2) and (k)(1) are amended by substituting $44,000 where $27,000 appears. Subsection (k)(2) remains unchanged.

29 CFR Part 1627 is amended as follows. Subsection (a) is amended by inserting the number $44,000 where $27,000 appeared. Subsection (b) is unchanged. Subsections (c)(1), (c)(2) and (c)(3) are amended by inserting $44,000 where $27,000 appeared. Subsections (c)(4) is unchanged. Subsections (c)(5), (c)(6), and (d) are amended by inserting $44,000 where $27,000 appeared. Subsections (e), (e)(1) and (e)(2) are unchanged.

Impact Analysis—This amendment will not result in an annual economic effect of $100 million or more as that term is used in Executive Order 12291 because it merely reflects the amendment to the ADEA made by Pub. L. 98-459.

Similarly, the Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this amendment will not result in a significant impact on a substantial number of small employers. Any economic impact is caused by the amendment of the ADEA and not this amendment.

List of Subjects

29 CFR Part 1625

Advertising, Aged, Employee benefit plans, Equal Employment Opportunity, Retirement.

29 CFR Part 1627

Aged, Equal Employment Opportunity, Reporting and recordkeeping requirements.

PART 1625—[AMENDED]

Section 1625.12 is amended by revising paragraphs (a), (j)(1), (j)(2) and (k)(1) to read as follows:

§ 1625.12 Exemption for bona fide executive or high policymaking employees.

(a) Section 12(c)(1) of the Act, added by the 1978 amendments and as amended in 1984, provides: "Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee which equals, in the aggregate, at least $44,000."

* * * * *

(j)(1) The annual retirement benefit must equal, in the aggregate, at least $44,000. The manner of determining whether this requirement has been satisfied is set forth in §1627.17(c).

(2) In determining whether the aggregate annual retirement benefit equals at least $44,000, the only benefits which may be counted are those authorized by and provided under the terms of a pension, profit-sharing, savings, or deferred compensation plan. (Regulations issued pursuant to section 12(c)(2) of the Act, regarding the manner of calculating the amount of qualified retirement benefits for purposes of the exemption, are set forth in § 1627.17 of this chapter.)

(k)(1) The annual retirement benefit must be "nonforfeitable." Accordingly, the exemption may not be applied to any employee subject to plan provisions which could cause the cessation of payments to a retiree or result in the reduction of benefits to less than $44,000 in any one year. For example, where a plan contains a provision under which benefits would be suspended if a retiree engages in litigation against the former employer, or obtains employment with a competitor of the former employer, the retirement benefit will be deemed to be forfeitable. However, retirement benefits will not be deemed forfeitable solely because the benefits are discountinued or suspended for reasons permitted under section 411(a)(3) of the Internal Revenue Code.

* * * * *

Section 1627.17 is amended by revising paragraphs (a), (c)(1), (c)(2), (c)(3), (c)(5), (c)(6), and (d) to read as follows:

§ 1627.17 Calculating the amount of qualified retirement benefits for purposes of the exemption for bona fide executives or high policymaking employees.

(a) Section 12(c)(1) of the Act, added by the 1978 amendments and amended in 1984, provides: "Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $44,000." The Commission's interpretative statements regarding this exemption are set forth in §1625 of this chapter.

* * * * *

(c)(1) The requirement that an employee be entitled to the equivalent of a $44,000 straight life annuity (with no ancillary benefits) is statisfied in any case where the employee has the option of receiving, during each year of his or her lifetime following retirement, an annual payment of at least $44,000, or

periodic payments on a more frequent basis which, in the aggregate, equal at least $44,000 per year: Provided, however, that the portion of the retirement income figure attributable to Social Security, employee contributions, rollover contributions and contributions of prior employers is excluded in the manner described in paragraph (e) of this section. (A retirement benefit which excludes these amounts is sometimes referred to herein as a "qualified" retirement benefit.)

(2) The requirment is also met where the employee has the option of receiving, upon retirement, a lump sum payment with which it is possible to purchase a single life annuity (with no ancillary benefits) yielding at least $44,000 per year as adjusted.

(3) The requirement is also satisfied where the employee is entitled to receive, upon retirement, benefits whose aggregate value, as of the date of the employee's retirement, with respect to those payments which are scheduled to be made within the period of life expectancy of the employee, is $44,000 per year as adjusted.

* * * * *

(5) The determination of the value of those benefits which may be counted towards the $44,000 requirement must be made on the basis of reasonable actuarial assumptions with respect to mortality and interest. For purposes of excluding from this determination any benefits which are available only after death, it is not necessary to determine the life expectancy of each person on an individual basis. A reasonable actuarial assumption with respect to mortality will suffice.

(6) The benefits computed under paragraphs (c)(1), (2) and (3) of this section shall be aggregated for purposes of determining whether the $44,000 requirement has been met.

(d) The only retirement benefits which may be counted towards the $44,000 annual benefit are those from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans. Such plans include, but are not limited to, stock bonus, thrift and simplified employee pensions. The value of benefits from any other employee benefit plans, such as health or life insurance, may not be counted.

* * * * *

(Sec. 12(c)(1) of the Age Discrimination In Employment Act of 1967, as amended by Sec. 802(c)(1) of the Older Americans Act Amendments of 1984, Pub. L. 98-459, 98 Stat. 1792))

Signed on 11th Day of January, 1985 at Washington, D.C.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 85-1347 Filed 1-16-85; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 84-51]

Drawbridge Operation Regulations; Reynolds Channel, NY

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: At the request of Nassau County, New York, the Coast Guard is changing the regulations governing the Long Beach drawbridge between Island Park and Long Beach, New York by revising the hours that the bridge will be required to open on signal. This change is being made because of limited requests for opening of the draw between 7 a.m. and 8 a.m. This action will continue to relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on February 19, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212)668-7994.

SUPPLEMENTARY INFORMATION: On September 13, 1984 the Coast Guard published proposed rules (49 FR 35963) concerning this amendment. The Commander, Third Coast Guard District also published the proposal as a Public Notice dated September 29, 1984. In each notice interested persons were given until October 29, 1984 to submit comments.

On April 24, the Coast Guard published a final rule (49 FR 17450) that reorganized the regulations for drawbridges (Part 117 of Title 33 Code of Federal Regulations) to consolidate common requirement and to organize bridge regulations into a more usable format. This final rule follows the revised numbering and format.

Drafting Information:

The drafters of these regulations are Lucas A. Dlhopolsky, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments:

Four comments on the proposed rule were received. Three comments were of no objection or interest, while one respondent (by unsigned correspondence) objected to the regulations. This respondent's comments were directed toward the existing as well as proposed regulations. It was stated that bridge openings on signal during the summer boating season (May 15 though September 30) were required for daylight hours prior to 7 a.m. and until midnight each day to avoid creating a safety hazard to sailboats. Bridge logs reveal that openings between midnight and 7 a.m. were provided for only six vessels during the boating season from 1980 through 1982. Each opening was for a single vessel. Additionally, the logs show that an average of only 10 boats required openings between 7 a.m. and 8 a.m. each year. This indicates that it is not reasonable to require an operator to be constantly in attendance at the bridge prior to 8 a.m.

The objecting respondent also suggested that regulations requiring 4 hours notice (midnight to 8 a.m. year round) be revised to provide openings on signal from May 2 through October 31. However, bridge logs show an average of only 13 openings each year (midnight to 8 a.m.) during this period. This also does not warrant having an operator constantly in attendance as suggested. The Coast Guard feels that the objections to the regulations are unsubstantiated, and that these regulations will adequately respond to the needs of the mariner. Based on past openings, the minimal vessels affected by this action will not produce the potential for a hazardous situation as stated by the objecting respondent.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. The bridge is transited almost exclusively by transient, recreational boaters navigating through Reynolds Channel. Since the closed draw has a vertical clearance sufficient to accommodate passage of most of these vessels, only minimal impact will result from these regulations. Of the openings between 7 a.m. and 8 a.m. from

1980–82, only one was for a commercial vessel. This indicates these regulations will have little or no impact on commercial vessels and minimal impact on recreational boating. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by revising § 117.799(g) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(g) The draw of the Long Beach Bridge across Reynolds Channel, mile 4.7, shall open on signal; except that:

(1) From midnight to 8 a.m. year-round, the draw shall open on signal if at least four hours notice is given; and

(2) From 3 p.m. to 8 p.m. on Saturdays, Sundays, and holidays from May 15 through September 30, the draw need be opened only on the hour and half hour.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(2); 33 CFR 1.05-1(g)(3))

Dated: January 2, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-1418 Filed 1-16-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-84-34]

Drawbridge Operation Regulations: Gulf Intracoastal Waterway-Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida Dept. of Transportation, the Coast Guard is changing regulations governing the Pinellas Bayway, Structure "C" Drawbridge, mile 114, at St. Petersburg Beach, Florida by permitting the number of openings to be limited during certain periods. This change is being made because periods of peak marine and vehicular traffic have increased. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of naviagtion.

EFFECTIVE DATE: These regulations become effective on February 19, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Bridge Administration Specialist, telephone (305) 350-4103.

SUPPLEMENTARY INFORMATION: On October 5, 1984, the Coast Guard published proposed rules (49 FR 40900) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated October 30, 1984. In each notice interested persons were given until December 3, 1984 to submit comments. The final rule differs from the proposed rule only in designation of paragraphs.

Drafting Information:

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

No comments were received in response to the **Federal Register** publication.

Sixteen responses to the public notice were received. Six favored the proposed rule, two opposed it and eight favored a more restrictive schedule of 20 or 30 minute draw openings. The two letters of opposition stated that since the drawspan presently opens an average of four times per hour the proposal would simply equalize the time between openings without improving vehicular traffic flow.

The regulations with controlled openings on 15 minute intervals will virtually eliminate multiple drawbridge openings (2 or more within a 15-minute increment) and thus reduce vehicular traffic congestion during peak traffic periods. More restrictive regulations, at this time, would not provide for the reasonable needs of navigation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by redesignating existing paragraphs (e) through (i) of § 117.287 as (f) through (j) and adding a new paragraph (e) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

* * * * *

(e) The draw of the Pinellas Bayway, Structure "C" bridge, mile 114, at St. Petersburg Beach shall open on signal; except that from 9:00 a.m. to 6:00 p.m. on Saturdays, Sundays, and holidays, the draw need be opened only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: January 7, 1985.

R.P. Cueroni,

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

[FR Doc. 85-1419 Filed 1-16-85; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[00000/R715; PH-FRL 2727-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Revocation of a Tolerance for Ethylene Dibromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revokes the tolerance in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on mangoes that have been fumigated after harvest with the insecticide ethylene dibromide (EDB). Elsewhere in this issue of the Federal Register, a tolerance of 30 ppb in the edible pulp of mangoes is established, based on a measurement of EDB *per se*, with an expiration date of September 1, 1985.

EFFECTIVE DATE: Effective on January 17, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110) 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
By Mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.
Office location and telephone number: Rm. 711, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7420).

SUPPLEMENTARY INFORMATION: On August 2, 1984, EPA issued a proposed rule, published in the **Federal Register** of August 10, 1984 (49 FR 32086), which proposed the revocation of the 10 ppm tolerance in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on mangoes that have been fumigated after harvest with EDB in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S Department of Agriculture (USDA).

No requests for referral to an advisory committee were received in response to the proposed rulemaking.

The comments received on the proposed rule are discussed in the related document, [00000/R717], establishing a tolerance of 30 ppb for residues of EDB *per se* in the edible pulp of mangoes, which appears elsewhere in this issue of the **Federal Register.**

As discussed in the proposal published on August 10, 1984, the Agency previously issued a notice of intent to cancel registrations of EDB for the quarantine fumigation of mangoes, which was published in the **Federal Register** of October 11, 1983 (48 FR 46234). The cancellation became effective for mangoes on September 1, 1984.

For those examining Part 180 of Chapter 40 of the Code of Federal Regulations (CFR), it should be noted that in the **Federal Register** of April 23, 1984 (49 FR 17147), 40 CFR 180.146 was amended by deleting the first paragraph listing tolerances at 50 ppm for various grains calculated as the inorganic bromide molecule.

Based on the information considered by the Agency, and discussed in detail in the August 10 **Federal Register** proposal and the support document which is available from the Agency at the address given in "**FOR FURTHER INFORMATION**" above, and after consideration of the comments submitted to the docket, the Agency is hereby revoking the tolerance in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on mangoes that have been fumigated after harvest with EDB in accordance with the USDA programs enumerated above.

Elsewhere in this issue of the **Federal Register,** the Agency has issued a final rule establishing a tolerance of 30 ppb (.03 ppm) for residues of EDB *per se* in the edible pulp of mangoes resulting from fumigation after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture, with a termination date of September 1, 1985. The Agency will shortly be publishing a final rule revoking the tolerances in 40 CFR 180.146 for residues of inorganic bromides in or on the remaining fruits and vegetables listed in the first paragraph of the regulation.

Any person adversely affected by this regulation revoking the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on mangoes that have been fumigated after harvest with EDB in accordance with the USDA programs enumerated above may, within 30 days after the date of publication of this regulation in the **Federal Register,** file written objections with the Hearing Clerk, at the address given above. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been sent to the Office of Managment and Budget for review as required by section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act, the Agency has analyzed the costs and benefits of the revocation of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on mangoes that have been fumigated with EDB after harvest. Documents containing these analyses are available at the address identified elsewhere in this rule.

As explained in the proposal published on August 10, 1984, pursuant to the requirements of Executive Order 12291, the Agency has determined that this tolerance revocation action is not expected to significantly affect mango prices or overall production levels.

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in detail in the August 10, 1984 proposal and the support document available from the Agency at the address given above.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(m), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)))

Dated: January 10, 1985.

Lee M. Thomas,
Acting Administrator.

§ 180.146 [Amended].

Therefore, 40 CFR 180.146 is amended by removing the commodity mangoes from the 10 parts per million listing in the first paragraph of the section.

[FR Doc. 84-1349 Filed 1-16-85; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[00000/R717; PH-FRL 2727-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Final Tolerance Rule for Ethylene Dibromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance of 30 ppb (.03 ppm) in 40 CFR 180.397 for residues of the insecticide ethylene dibromide (EDB) in the edible pulp of the raw agricultural commodity mangoes resulting from fumigation of this commodity after harvest in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture. This tolerance regulation, which was initiated by EPA, will expire on September 1, 1985.

DATE: Effective on January 17, 1985. Expires September 1, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm.