

EPA may conditionally approve the revision. The condition suggested here—that GM be required to install equipment in order to accommodate low solvent coatings—would not address how expeditiously GM would comply with RACT, (the major deficiency of the SIP revision request). Therefore, EPA could not approve the revision based on such a condition.

Issue No. 5: The 1983 RFP report was not incomplete and contained the compliance status of VOC sources and graphs representing annual reductions that the December 2, 1986, Federal Register stated it lacked.

Issue No. 5 Answer: As stated in the answer to GM's issue #7, a final and complete RFP report containing the compliance status of VOC sources and graphics was not submitted with the SIP revision, and was not received by EPA until June 4, 1986.

As no public comments were received which raised issues or facts sufficient to cause the Agency to reconsider its proposed action, EPA is taking final action to disapprove this SIP revision.

Final Action

EPA is disapproving the SIP revision, submitted by the DEQE on December 30, 1985, to Massachusetts' automobile surface coating regulation, 310 CMR 7.18(7), to extend the final compliance date to implement RACT on topcoat and final repair applications from December 31, 1985 to August 31, 1987. The final compliance date for automobile surface coating, topcoat and final repair applications will remain December 31, 1985.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air Pollution control, Hydrocarbons, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 1988. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

Date: September 4, 1988.

Lee M. Thomas,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1168a, is added to read as follows:

§ 52.1168a Part D—Disapproval of Rules and Regulations.

On December 30, 1985, the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a revision to the Massachusetts State Implementation Plan (SIP) for the automobile surface coating regulation. This revision requested an extension of the final compliance dates to implement reasonably available control technology (RACT) on topcoat and final repair applications. As a result of EPA's disapproval of this revision, the existing compliance date of December 31, 1985 specified in the automobile surface coating regulation contained in the Massachusetts SIP will remain in effect (Massachusetts Regulation 310 CMR 7.18(7) as approved by EPA and codified at 40 CFR 52.1120(c)(30) and (53)).

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 306

Child Support Enforcement Program, Medical Support Enforcement

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: OCSE is amending the Child Support Enforcement program regulations governing medical support enforcement. Prior regulations required State child support enforcement (IV-D) agencies to perform certain medical support enforcement activities. This regulation requires State IV-D agencies to extend these activities to certain IV-D cases not embraced by the prior regulations and eliminates a restriction which applies to cooperative agreements between State IV-D and State Medicaid agencies. The IV-D agency is required to develop criteria to identify existing child support cases which have a high potential for obtaining medical support, and to petition the court or administrative

authority to modify support orders to include medical support for targeted cases even if no other modification is anticipated. In addition, the IV-D agency is required to provide the custodial parent with information pertaining to the health insurance coverage obtained by the absent parent for the dependent child(ren). Further, this regulation deletes the condition that IV-D agencies may only secure health insurance coverage under a cooperative agreement when it will not reduce the absent parent's ability to pay child support. Finally, this regulation deletes prior maintenance of effort requirements States must adhere to when entering into a cooperative agreement with the State Medicaid agency. No changes were made to the regulations as a result of comments received.

These activities will expand the number of children for whom private health insurance coverage is obtained by increasing the availability of third party resources to pay for medical care and will result in Medicaid cost savings to State and Federal governments. Federal funding under title IV-D of the Social Security Act is available to State IV-D agencies for these required medical support activities.

EFFECTIVE DATE: September 16, 1988, except for §§ 306.51 (b)(3) and (b)(5) which are pending OMB approval. These sections will become effective when notice is given in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Andrew J. Hagan, Policy Branch, OCSE (202) 252-5368.

SUPPLEMENTARY INFORMATION: Background

Section 16 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) amends section 452 of the Social Security Act (the Act). This statute requires the Secretary of HHS to issue regulations to require that State IV-D agencies petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at reasonable cost. It also provides for improved information exchange between State IV-D and State Medicaid agencies. OCSE published implementing regulations on October 16, 1985 in the Federal Register (50 FR 41887). Those regulations require the State IV-D agency to secure medical support information regarding the absent parent, to exchange information with the State Medicaid agency, to petition the court or administrative entity to include health insurance in

new or modified support orders, whether or not it is currently available to the absent parent at reasonable cost, and to take steps to enforce ordered health insurance coverage. The State IV-D agency may perform certain functions beyond the scope of the title IV-D program, including providing services on behalf of individuals who are not receiving IV-D services, by entering into cooperative agreements with the State Medicaid agency pursuant to 45 CFR Part 306, Subpart A.

In prior years, little attention was paid to petitions for health insurance coverage for the dependent child of an absent parent with the result that only a limited number of AFDC cases already adjudicated require the absent parent to obtain health insurance coverage. Prior requirements to petition for medical support were applicable only to new cases or cases which required modification of existing orders for reasons other than medical support. After those regulations were published, it became apparent that health insurance coverage for a substantial number of existing child support cases was not addressed.

This regulation expands the prior requirement to include existing cases with child support orders which warrant modification solely for purposes of obtaining medical support. Examples of situations in which petitions to modify might be considered are: (1) Absent parents leaving unemployment compensation rolls due to changes in employment status, in which case the new employers will, most likely, provide health benefits; (2) Absent parents having wages withheld for child support, in which case it is likely they should have jobs that provide health benefits; (3) Other indications that the absent parents are employed by organizations likely to provide health benefits such as union membership, available wage information from State tax forms, etc.; or (4) Situations in which comparisons with Medicaid data indicate that health benefits formerly provided without a court order have lapsed. The prudent use of State and Federal resources dictates that the IV-D Agency develop procedures to work closely with the State Medicaid Agency to give priority to cases in which there is a demonstrated need for medical support.

Enhancements to medical support enforcement activities have been made because of the belief that many absent parents have private health insurance or health insurance coverage available through employers, unions or other groups. Such coverage may be extended when available at reasonable cost to

provide for dependents' medical expenses. This regulation will benefit families by increasing the incidence of absent parents who obtain health insurance coverage for their dependent children and will result in cost savings to State and Federal governments by reducing Medicaid expenditures when such insurance is available to families who are eligible for AFDC or Medicaid services. This regulation is also responsive to the February 12, 1985 findings of the General Accounting Office's report to Congress, "Improved Efforts Needed to Relieve Medicaid from Paying for Services Covered by Private Insurers," which stressed that the Medicaid program should be relieved of health care costs if some other person is legally responsible to pay since Federal and State Medicaid costs (which, according to the report, totalled \$38 billion in 1984) would be reduced without affecting Medicaid services.

This regulation is also responsive to the Office of the Inspector General's study entitled "Child Support Enforcement/Absent Parent Medical Liability" which looked at cases in which a new or modified child support order was established in the first quarter after the effective date of the earlier medical support regulation. Medical support was included in the child support order in less than half of these cases. These final regulations address the concerns of the Office of Inspector General about the availability of medical support services and the better coordination between the responsible agencies.

The implementing regulations of October 16, 1985 also included interim final regulations, with a comment period, for §§ 305.20(c) and 305.56, which added medical support enforcement to the State plan-related audit criteria. The audit regulations were effective October 16, 1985, with a comment period until December 16, 1985 for any public comment. Since no comments were received by the December 16 deadline, no revisions are necessary to the interim final regulations and those regulations are final rules.

Statutory Authority

This regulation is published under the authority of sections 1102, 452(f) and 454(13) of the Act. Section 1102 authorizes the Secretary of HHS to publish regulations not inconsistent with the Act which may be necessary to efficiently administer the Secretary's functions under the Act. We believe this regulation is consistent with the Act, as section 462(b), which defines "child support" for purposes of certain

garnishment proceedings to include "payments to provide for health care", has long been an integral section of title IV-D of the Act. In addition, section 452(f) of the Act requires the Secretary of HHS to issue regulations to require States to petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Further, under section 454(13) of the Act, States must comply with such requirements and standards as the Secretary of HHS determines to be necessary for the establishment of an effective title IV-D program.

Regulatory Provisions

Prior regulations at 45 CFR 306.10(g) provided that IV-D agencies may, under cooperative agreement, secure health insurance coverage through court or administrative order when it will not reduce the absent parent's ability to pay child support. This regulation deletes the condition that the health insurance may not affect the absent parent's ability to pay cash support payments.

This regulation deletes the maintenance of effort requirement at 45 CFR 306.40 which prohibits a decrease in title IV-D program activities, personnel and resources as a result of entering into cooperative agreements with a State Medicaid agency.

Section 306.51(a) of prior regulations stated that, for purposes of this section, health insurance is considered reasonable in cost if it is employment-related or other group health insurance. This regulation amends 45 CFR 306.51(a) by designating all that follows the phrase "For purposes of this section" as paragraph (1) and clarifying in the newly designated paragraph (1) that all employment-related or group health insurance is considered reasonable regardless of the service delivery mechanism. A new paragraph (2) clarifies the definition of health insurance to include health maintenance organization (HMO) and preferred provider organization (PPO) and other types of coverage under which medical services could be provided to the dependent child(ren) of an absent parent.

Prior regulations at 45 CFR 306.51(b) required State IV-D agencies to petition the court or administrative authority to include health insurance in new or modified court or administrative orders. As previously stated, there was no specific requirement for State IV-D agencies to return to court to add medical support to existing orders. This regulation amends 45 CFR 306.51(b) by

redesignating the current contents of paragraphs (b) (3), (4), (5) and (6) as (b) (6), (7), (8) and (9), respectively, and inserting new paragraphs (3), (4) and (5).

The new paragraph (b)(3) requires all State IV-D agencies to develop written criteria to identify cases not included under paragraphs (b)(1) and (b)(2) with a high potential for obtaining medical support based on: (i) Evidence that health insurance may be available to the absent parent at a reasonable cost; and (ii) Facts, as defined by State law, regulation, procedure or other directive, which are sufficient to warrant modification of the existing support order to include health insurance coverage for a dependent child(ren).

The new paragraph (b)(4) requires State IV-D agencies to petition the court or administrative authority to modify support orders for targeted cases identified in paragraph (b)(3) to include medical support in the form of health insurance coverage.

The new paragraph (b)(5) requires IV-D agencies to provide the custodial parent with health insurance policy information when the absent parent secures coverage for the dependent child(ren). This includes any information available to the IV-D agency about the health insurance policy which would permit a claim to be filed or, in the case of HMO's and PPO's, services to be provided.

This regulation does not alter or replace other provisions at 45 CFR 306.51. It remains the responsibility of the State IV-D agency to take steps to enforce health insurance coverage as required by court or administrative order. The IV-D agency is not responsible for enforcing medical support of an unspecified nature, unless this is done under cooperative agreement with the State Medicaid agency.

As indicated above, Federal funding is available to IV-D agencies for these required medical support activities.

Response to Comments

We received 32 comments in response to the Notice of Proposed Rulemaking published in the *Federal Register* on May 27, 1987 (52 FR 19738). Twenty-five State agencies, four local agencies, two private citizens and one advocacy group submitted comments.

Section 306.10(g) Securing Health Insurance Coverage

We received eight comments including six from State agencies on revising § 306.10(g) to allow IV-D agencies under a cooperative agreement with the Medicaid agency to secure health insurance coverage through court

or administrative order regardless of whether or not it will reduce the absent parent's ability to pay child support.

Comment: All eight commenters expressed concern that, if medical support were to be treated on an equal footing with financial support, the potential adverse impact on child support collections would outweigh the benefit to the child and the State Medicaid agencies. Commenters expressed concern that payment or recovery of medical expenses can be delayed while child support payments meet the daily needs of the child(ren) and that this change may force medically needy families onto welfare if there is a reduction in cash support.

Response: Under current IV-D regulations (§ 306.51(b)) which require State IV-D agencies to petition for inclusion of medical support in support orders, there are no provisions which allow the petition for medical support to be excluded because it might adversely affect financial support. The revision to § 306.10(g) makes IV-D requirements under cooperative agreements consistent with the general responsibility of IV-D agencies for seeking establishment of medical support.

Section 306.40 Maintenance of Effort

We received five comments from State agencies concerning the deletion of the maintenance of effort requirement when a IV-D agency enters into a cooperative agreement with the State Medicaid agency.

Comment: All five expressed concern that enforcement of financial support could suffer without the maintenance of effort requirement.

Response: The regulations were revised to provide States more flexibility in developing cooperative agreements which are best suited to the needs of the State and the agencies involved. This change conforms to the Health Care Financing Administration's (HCFA's) regulations implementing section 2367 of Pub. L. 98-369, which provides the States greater flexibility in the administration of the third-party liability program. In addition, the maintenance of effort requirement is no longer necessary to ensure that child support services are provided as a result of the revised audit criteria published October 1, 1985 in the *Federal Register* (50 FR 40120). The audit regulations required OCSE to conduct an audit of State IV-D agencies at least once every three years to determine whether each State has an effective IV-D program. These regulations incorporate objective performance criteria which OCSE will use to determine program effectiveness

in providing child support services to those in need of them.

Section 306.51(a) Securing and Enforcing Medical Support Obligations

We received eight comments on the clarification that service delivery mechanism does not affect whether health insurance is considered reasonable.

1. *Comment:* Four commenters, including two State agencies, asked how the medical support regulations will be enforced when the absent parent's health insurance coverage is through an HMO which may not be geographically available to the child(ren).

Response: The regulations only require the IV-D agency to petition the court or administrative body which establishes support orders to include medical support in the support order in appropriate cases. The provisions of a support order are determined on a case-by-case basis in accordance with State law and judicial or administrative discretion. If the IV-D agency petitions the court or administrative authority to include medical support in the order and the court or other authority does not do so, the IV-D agency has met its responsibility under the regulations.

Furthermore, it should be noted that availability of insurance alone may not be a sufficient indicator that it would be cost-effective for the IV-D agency to seek modification of an order if the available insurance has geographic limitations which preclude the child(ren)'s use of the services.

2. *Comment:* One State agency requested we revise the language of the regulations by adding "all alternative service delivery systems" so as to include individual practice associations (IPA's), dental professional organizations (DPO's), group and model HMO's and other forms of service delivery.

Response: We are revising the language of the regulations in response to the commenter's request to clarify that fee-for-service, HMO and PPO were cited only as examples of service delivery mechanisms. Additional service mechanisms such as those in the commenter's letter are also included.

3. *Comment:* One local agency requested further definition of "reasonable in cost."

Response: We consider any employment-related or other group coverage "reasonable" under the assumption that most employment-related or other group health insurance is inexpensive to the employee/absent parent. A study done in 1983 by the National Center for Health Services

Research of the Public Health Service indicated that, for low-wage employees with employer-provided insurance coverage, 72% of the premium costs was paid for by the employer. These regulations do not require that absent parents be asked to purchase more expensive individual health coverage for their children.

4. *Comment:* One local agency expressed concern that the custodial parent could refuse to use a health care provider required by the absent parent's health care coverage.

Response: It is beyond the scope of these Federal regulations to specify that the custodial parent must use the health care providers covered under the absent parent's health insurance policy. These regulations pertain to IV-D agencies' responsibilities, not those of Medicaid recipients under title XIX of the Act. In non-AFDC cases, since the IV-D agency may provide medical support services only with the consent of the non-AFDC individual, refusal to use the health care provider should not be a problem.

5. *Comment:* One State agency opposed the definition of health insurance as reasonable if it is employment-related or other group health insurance, since in minimum wage jobs the insurance often is not reasonable in cost.

Response: As cited earlier, research indicates that 73 percent of low-income employees can obtain employment-related insurance at reasonable or no cost. Ultimately it will be up to the court or administrative authority to decide in an individual case whether the health insurance is available at a reasonable cost.

6. *Comment:* One State agency questioned whether the statement in section 306.51(a)(1) that "Health insurance is considered reasonable in cost if it is employment-related or other group health insurance" means that any employment implies that health insurance is available at reasonable cost or that the determination of reasonable is to be based on employment where health insurance is known to be offered by the employer or available under a group plan.

Response: Section 306.51(b) requires the State to petition the court or administrative authority to include health insurance in new or modified court or administrative orders for support whether or not health insurance at reasonable cost is actually available to the absent parent at the time the order is entered. We believe that this will result in fewer delays in obtaining coverage for dependents because the State will not always have to go back to the court or use administrative

procedures to have medical support included in the existing order once insurance becomes available to the absent parent. If, however, the IV-D agency is seeking to modify an order solely for medical support, there must be evidence that health insurance may be available to the absent parent at a reasonable cost and facts must exist which are sufficient under State law to warrant modification of the existing support order.

Section 306.51(b)(3) Establishment of Written Criteria Where There is a High Potential for Obtaining Medical Support

We received 13 comments on the new provision that the IV-D agency shall establish written criteria to identify existing cases where there is a high potential for obtaining medical support.

1. *Comment:* Three commenters requested greater specification of the phrase "high potential for obtaining medical support" to avoid being held accountable as a result of an audit or review for not adequately implementing the medical support requirements.

Response: As explained in the rationale accompanying the proposed regulations, States are being given the flexibility to set their own criteria for selecting cases with high potential for obtaining medical support to return to court. This will allow States to respond to conditions and requirements of State law which may be unique to them. We encourage State IV-D agencies to consult with the State Medicaid agencies for assistance in determining which type of cases have the greatest potential for high future costs savings.

When attempting to determine the availability of health insurance coverage under § 306.51(b)(3)(i), States could focus on cases with income that is indicative of regular employment, such as cases with orders for wage withholding and cases with assets which may be indicative of changed financial circumstances or substantial income. Similarly, States could examine the employment history of absent parents to identify union membership, new employment or other situations which may indicate the existence of health insurance resources. However, it should be noted that availability of insurance alone may not be a sufficient indicator that the case is appropriate for modification under State law or that the available insurance would be beneficial to the child, e.g., coverage may exclude certain pre-existing conditions, or have geographic limitations such as a PPO which would preclude the child's use of the services.

2. *Comment:* Four commenters opposed the requirement that cases be

reviewed to identify cases with high potential for medical support coverage. One State agency commented that the process could be duplicative if the Medicaid agency already knows of health insurance coverage. Another State agency suggested that the process of identifying absent parents with health insurance resources is an on-going labor-intensive process with a minimal success rate. The commenter indicated that questionnaires to the absent parent requesting information about insurance coverage generate less than a 50 percent response and additional investigation with the absent parent's employer or insurance carrier often doesn't improve the information gathered.

Response: In too many cases, children are not receiving appropriate child support services, including medical support coverage, because their cases are lying moribund, with no periodic review to determine whether the child(ren)'s needs have changed or the absent parent's circumstances have varied. The review of cases based on State-developed criteria will alleviate this injustice. States have been given the opportunity to develop criteria and procedures to fit their special needs, while ensuring medical support services will be provided to those in need. State IV-D agencies should collaborate with the State Medicaid agency and with employers and insurance carriers to identify cost-effectively those cases with a high potential for medical support.

3. *Comment:* Three State agencies and one local agency expressed the concern that full implementation of the medical support provisions would require IV-D agencies to perform additional duties, resulting in a diversion of resources from the establishment and enforcement of child support obligations, and would increase the workload of the courts and the Medicaid agency. One commenter suggested that the requirement be limited to cases referred to the IV-D agency by the Medicaid agency.

Response: OCSE realizes that the implementation of the medical support requirements, both the earlier (October 16, 1985) regulations and these more expansive revisions, will necessitate additional resources. Federal financial participation in these additional costs is available. We also believe that it is in a State's best financial interest to aggressively pursue medical support since such efforts could result in considerable Medicaid cost savings to the State.

The suggestion that the requirement apply only to cases referred by the Medicaid agency is inconsistent with the purposes of the IV-D program. Services

provided under the IV-D program must be available to all who request and need them. We recommend collaboration with the Medicaid agency in developing the criteria so that Medicaid-eligible cases will be served, but the IV-D agency must also provide services to children needing medical support who are not eligible for Medicaid.

4. *Comment:* One State agency pointed out that neither the IV-D agency nor the Medicaid agency may know the medical history of the child(ren) and that the Medicaid agency would learn of large medical bills only after they are incurred.

Response: To be able to establish and enforce medical support obligations in situations of extraordinary medical expenses or chronic conditions, States should be aware of the child(ren)'s medical history. Although IV-D agencies are not specifically required to investigate the child(ren)'s medical history, certainly, any information which comes to their attention concerning new medical exigencies should be considered.

5. *Comment:* One State agency requested clarification regarding whether in interstate cases the criteria of the initiating State or of the responding State govern if there is a difference in criteria the States use to determine cases with a high potential for obtaining medical support.

Response: Where there is a difference between the criteria of the initiating State (the State where the child(ren) and custodial parent live) and the responding State (the State where the absent parent lives) the criteria of the responding State will govern because it is the responding State's criteria which will govern whether or not the case meets the conditions for modification in that State. An initiating State may request a review of an existing interstate case to determine if modification to include medical support in the order should be sought. In responding to such a case, however, the responding State will use its own criteria for selection.

6. *Comment:* One State agency expressed concern that the effect of the medical support regulations would be that the IV-D agency would be working many of the child support cases twice (presumably once to establish child support and again to seek medical support) with the potential of issues other than child or medical support (presumably custody or visitation issues) being raised during an attempt to modify the order. The commenter indicated that Federal funding is not available for adjudicating these issues.

Response: In attempting to modify an order to address medical support, other unrelated issues may be raised. States should encourage the participation of custodial parents in modification hearings. If non-IV-D issues are raised, custodial parents should definitely be given an opportunity to obtain private counsel to protect their interests. The commenter is correct that Federal funding is available only for IV-D activities that are part of the approved State plan.

7. *Comment:* One State agency expressed concern that the regulation would allow financial support and medical support to compete in all levels of the child support system. One local agency pointed out that some States' child support guidelines take into account medical support in the form of medical insurance premium payments when establishing financial support amounts while other States' guidelines do not and requested guidance from OCSE on how to include medical insurance premium payments in financial support guidelines.

Response: Medical support is an integral part of child support and should not be considered as an extraneous issue. In developing the written criteria to identify the high priority cases for referral to the court or administrative authority for inclusion of medical support, States should consider whether adequate financial support to obtain medical support is already included in the original order.

In September, 1987, OCSE published "Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report," which was prepared under a grant to the National Center for State Courts. Copies are available from the OCSE Reference Center, Room 2525, 330 C Street, SW., Washington, DC 20201. This publication may be useful to States in determining how to address medical support in support guidelines. However, each State was required to have implemented by October 1, 1987, guidelines using the criteria that the individual State considered appropriate.

Section 306.51(b)(3)(i) Evidence That Health Insurance May Be Available to the Absent Parent at a Reasonable Cost

We received four comments on the requirement that the written criteria for identifying cases with high potential for obtaining medical support include evidence that health insurance may be available to the absent parent at a reasonable cost.

Comment: The commenters all expressed concern that obtaining medical support would be hindered by

restrictions on coverage by insurance companies, including the exclusion of dependents not living with the policyholder, born out-of-wedlock, or born before enrollment but not listed at the time of enrollment; geographic restrictions; and policy riders which void coverage if Medicaid benefits are available.

Response: OCSE is fully aware that there are certain restrictions imposed by some insurance companies which will hinder obtaining medical support. However, these should affect only a small proportion of cases. The IV-D agency should notify the Medicaid agency in cases where insurance company restrictions are inconsistent with section 1903(o) of the Social Security Act, which states that Medicaid is to be the payor of last resort. The IV-D agency should also work with the Medicaid agency and the State Insurance Commission to have unduly harsh health insurance policy restrictions investigated.

Section 306.51(b)(3)(ii)—Facts, as Defined by State Law, Sufficient to Warrant Modification to Include Medical Support

We received three comments on the requirement that the written criteria for identifying cases with high potential for obtaining medical support include facts, as defined by State law, which are sufficient to warrant modification to include medical support.

1. *Comment:* One commenter suggested that "law" should be replaced with "law, regulation, procedure or directive."

Response: While we believe circumstances which warrant modification of support orders are generally set forth in State law, some States may address those circumstances in regulations, judicial procedures or court directives. The point of this section is to ensure that criteria for identifying cases in which to seek medical support should take into consideration the circumstances under which it is allowable in the State to seek to modify a support order. Accordingly, we have accepted the commenter's suggestion and have revised § 306.51(b)(3)(ii) to include regulation, procedure or other directive.

2. *Comment:* One court officer pointed out that several States have laws that allow modification of child support orders only upon the showing of a material and substantial change in the circumstances of the parties since the entry of the original order. The commenter requested clarification about the apparent conflict between the

statement in the proposed rule that this "proposal would expand the audience of the current requirement to include existing cases with child support orders which require modification only for the purposes of medical support" and the actual language of § 306.51(b)(3)(ii) which requires States to establish criteria for identifying cases with a high potential for obtaining medical support based on facts which are sufficient to warrant modification of the existing order.

Response: As stated in the rationale accompanying the proposed regulation, not all cases where an absent parent has available health insurance would be appropriate for return to court. Support orders are generally modified only in response to a significant change in the circumstances of the parties since the rendering of the original order. Likely candidates for modification actions may include cases which indicate a change in the medical needs of the child or changes in the financial circumstances of either parent. Attention should be given to cases where medical support would be of obvious benefit to the family. This includes cases where the child's health is affected by chronic or debilitating illnesses which require extensive, expensive health services. States need to examine their own laws to determine what restrictions apply in the State with respect to seeking modification of an existing order to include health insurance.

3. Comment: One State agency commented that each State has different statutory standards for a modification of child support orders, and cited the difficult standard in its State.

Response: OCSE is cognizant of the diversity among the States with respect to when a modification can be sought. For that reason, the regulations allow States to develop criteria for identifying cases which warrant modification to include medical support under the State's law. If the State's law governing modification is restrictive, the number of cases in which the State will be able to seek modification to include medical support will be similarly restricted.

Section 306.51(b)(4)—Petition the Court or Administrative Authority to Modify Orders to Include Medical Support in the Form of Health Insurance Coverage

We received 24 comments on the requirement that the IV-D agency petition the court or administrative authority to modify orders to include medical support in the form of health insurance coverage for cases identified as appropriate according to the criteria in § 306.51(b)(3).

1. Comment: The majority of commenters expressed concern that the time, effort and staff required to examine existing cases and to petition the court or administrative authority for medical support in cases identified as appropriate should not be diverted from child support efforts.

Response: Prior regulations only mandated efforts to obtain medical support in new orders or orders modified for reasons other than just seeking medical support. Under that requirement, the need for medical support in existing cases was ignored. This regulation addresses that inequity by requiring States to identify those existing cases in which medical support might be available and there are grounds for modification solely to obtain such support. In so doing, it eliminates inequitable treatment under the program and ensures scrutiny to detect the availability of health insurance.

OCSE believes that the benefits of obtaining medical support in existing cases should outweigh the administrative burden of examining the current caseload and petitioning the court or administrative authority. The gathering of information to assist the decisionmaker, including a description of the available health insurance coverage, the medical history and special medical needs of the child(ren), and any change in the financial circumstances of either party, could lead to increased support awards, in addition to medical support for the child(ren) and Medicaid cost savings for the State and Federal government. In any case, Federal matching funds are available for any additional administrative costs associated with these activities and the expected Medicaid cost savings should far outstrip any cost of additional resources.

2. Comment: One State agency pointed out that State law prohibits the County Attorney from petitioning the court to modify a child support order, including any ancillary matters, and that this provision would require a State law amendment.

Response: Section 306.51(b)(4) requires IV-D agencies to petition the court or administrative authority to modify support orders for cases that meet the criteria established by the State under § 306.51(b)(3). In order to meet this requirement, States will have to develop procedures, enact laws, or make whatever changes are necessary to allow them to secure modifications in accordance with § 306.51(b)(4).

3. Comment: One State agency expressed concern that it would have to amend its administrative process law in

order to modify orders to include medical support administratively.

Response: Use of administrative process can expedite establishment and enforcement of support. If legislation is needed to allow administrative modification of orders to include medical support, we urge the State to pursue a legislative change.

4. Comment: Two commenters stated that some courts would not consider a revision of child support orders to include medical support to be a significant enough change in the circumstances of the parties to be defensible in the court. One commenter also expressed concern that the court might reduce the financial support obligation if the case were to be returned to court.

Response: The IV-D agency is only required to petition the court or administrative authority for medical support if it believes the circumstances would warrant a modification in accordance with State law and procedures. The court or other authority must decide whether the need for medical support is sufficient to revise the child support order. However, if the IV-D agency adequately prepares its requests for modification, explaining the child(ren)'s needs and that the absent parent has available health insurance coverage at a reasonable cost, the court or administrative authority could well grant the requested modification. The possibility of a decrease in the financial support obligation at the same time is a factor the State should consider in determining which cases warrant petitions for modification. The child(ren)'s medical needs may, in some cases, be so important that the health insurance coverage is essential and warrants any risk of reduction in financial support. We believe that in most cases where there has been a substantial change in circumstances, the hearing for consideration of medical support could also result in an increase in the amount of financial support.

5. Comment: One commenter stated that many child support orders are obtained by consent and that absent parents' failure to consent to a revision to include medical support in the child support order could increase the burden on the already back-logged court system. Nine commenters expressed concern over the increased workload on the courts due to child support revisions being requested to include medical support.

Response: We encourage IV-D agencies to attempt to modify a child support order to include medical support by consent order. However, should such

attempts fail, petitions for modification will have to be filed. State criteria for selecting cases "ripe" for modification should enable the use of expedited processes to establish most modified orders and, therefore, only complex cases should be referred to the full judicial process. The courts should not be unduly burdened because we believe that most modifications will be routine and cases will be handled under expedited processes.

6. *Comment:* One State agency suggested that it is beyond the required functions of the IV-D agency to address the medical history of the child(ren) in petitioning for medical support.

Response: OCSE does not envision an examination of the child(ren)'s medical history in all cases. Rather, such an examination would only be needed when the medical history and special medical needs come to the attention of the IV-D agency and are integral to the argument for inclusion of medical support in the child support order.

7. *Comment:* One State agency strongly objected to the provision which requires that revisions to child support orders be sought solely for the purpose of including medical support. The State agency suggested that the same result would be achieved eventually as cases were reviewed and petitioned for revision of financial support.

Response: OCSE agrees with the commenter that these regulations would not be necessary if all child support awards were routinely reviewed and updated since the State must petition for inclusion of medical support in all new and modified cases. The State may not have to establish a separate review process for medical support, if it routinely reviews all cases for potential modification of support and there are provisions in its review criteria which allow cases to be modified for medical support even in the absence of a potential revision in the support award.

8. *Comment:* One State agency worried that petitioning the court or administrative authority to include medical support in child support orders could result in countersuits that will involve property distribution, custody or visitation issues.

Response: Although there is potential for additional, extraneous issues to be raised when the court or administrative authority is petitioned for inclusion of medical support in the child support orders, research indicates that there is a much greater chance for the child(ren)'s situation to be improved (e.g., inclusion of medical support, an increase in the amount of financial support) by petitioning the court or administrative authority.

9. *Comment:* One advocacy group commented that, since their State law provides that the amount the absent parent pays for the child(ren)'s medical insurance be deducted from his or her income before calculating the financial support obligation, if the custodial parent can provide medical insurance for the child(ren), the proposed requirement would unnecessarily reduce the amount of financial support.

Response: Section 306.51(b)(1) requires the IV-D agency to petition for medical support "unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid." If the custodial parent does not have access to health insurance, the family may be better off with medical support, even if the result is less financial support.

10. *Comment:* One local agency commented that the custodial parent who is an AFDC recipient might not wish to pursue medical support since health services are provided by the Medicaid program while the non-AFDC custodial parent would not welcome medical support, unless the child(ren) have major medical problems, if health insurance payments might impact on the absent parent's ability to pay financial support.

Response: In accordance with section 1912 of the Act, Medicaid recipients must assign any rights to medical support to the Medicaid agency and cooperate in securing that support as a condition of eligibility for Medicaid. Non-AFDC custodial parents, who are not Medicaid applicants or recipients, must consent before receipt of medical support enforcement services, in accordance with § 306.51(c). Since custodial parents otherwise would have to secure health care coverage when they leave the AFDC roles, inclusion in the absent parent's group plan could be considerably cheaper.

Section 306.51(b)(5) Provide the Custodial Parent With the Health Insurance Policy Information

We received 13 comments on the requirement that the custodial parent be provided information pertaining to the health insurance policy which had been secured for the dependent child(ren) under this section.

1. *Comment:* The majority expressed concern that the mechanism for obtaining this information has not been established and that meeting this requirement would be difficult and expensive.

Response: Section 306.51(b)(5) requires IV-D agencies to provide the custodial parent with health insurance policy information when the absent

parent secures coverage for the dependent children. This would include only any information which is available to the IV-D agency.

2. *Comment:* Four State agencies asked whether the IV-D agency would be required to interpret the provisions of the policy or to assist the custodial parent with the filing of claims.

Response: The IV-D agency is required to provide the custodial parent with health insurance policy information when the absent parent secures coverage for the dependent child(ren), including information available to the IV-D agency about the policy which will permit a claim to be filed and what services are to be covered, or provided in the case of HMO's and PPO's. The IV-D agency is not required to interpret the policy or assist in the filing of claims.

3. *Comment:* One State agency suggested that the States should be given flexibility to designate which agency should be responsible for notifying the custodial parent of available health insurance coverage.

Response: The IV-D agency need only ensure that the custodial parent gets the information about the health insurance policy. If the IV-D agency prefers to arrange for the custodial parent to receive the information from some other source via a cooperative agreement or other procedure, it may do so, as long as the custodial parent receives the necessary information.

4. *Comment:* Two commenters, including a State agency, suggested that we specify what information the IV-D agency must provide to the custodial parent.

Response: The IV-D agency must provide any information available to it about the health insurance policy which would permit a claim to be filed or, in the case of HMO's or PPO's, services to be provided.

5. *Comment:* One State agency asked if implementation could be delayed for a year to allow States to assess the fiscal impact.

Response: OCSE believes that adequate time has elapsed since the enactment of the 1984 Amendments for the States to have fully prepared for their implementation. Further delay would only result in children being deprived of the medical support which is their due.

Comments Received on Potential Financial Impact of Requirements

1. *Comment:* Sixteen commenters pointed out that their child support enforcement programs are audited and evaluated on the basis of the ratio of

child support collections to expenditures and that inclusion of expenditures for medical support enforcement without providing appropriate credit for collection of health insurance premiums or savings to the Medicaid program would lower that ratio. Some commenters recommended that expenditures associated with medical support activities be deducted from the IV-D agency's total child support enforcement expenditures when performance ratios are computed.

Response: The method of calculating incentive payments is specified in title IV-D of the Act. However, we believe that the overall impact of the requirements in this regulation on incentive payments to States will be nominal.

2. **Comment:** Fourteen commenters requested that an incentive system for medical support enforcement activities be established. Some commenters specified that OCSE should permit the State to count the health insurance coverage premiums as collections eligible for incentive payments.

Response: Current statute does not allow health insurance premiums to be counted as collections eligible for incentive payments. However, since the savings accruing to State governments as a result of medical support efforts may be substantial, States may wish to examine the possibility of rewarding their IV-D agencies for aggressive medical support efforts with some portion of the non-Federal share of resultant savings. States could develop incentive formulas to reward their State or local IV-D agencies for successful medical support enforcement activities based on Medicaid savings.

3. **Comment:** Four commenters expressed concern that OCSE had underestimated the impact of the regulations. One State agency suggested that OCSE should do an extensive impact study or pilot project to ensure that implementation of the medical support regulations would have no adverse impact on the States.

Response: OCSE realizes that the implementation of the medical support regulations will require additional efforts and expenditures, but the long-term benefit to the children and the Medicaid savings should well exceed the implementation costs. States should look beyond the IV-D agency perspective to the cost-benefit potential for the State as a whole when comparing Medicaid savings and IV-D costs.

Paperwork Reduction Act

45 CFR 306.51 (b)(3) and (b)(5) of this regulation contain information collection

requirements which are subject to OMB review under the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The public is not required to comply with these information collection requirements until OMB approves them under section 3507 of the Paperwork Reduction Act. A notice will be published in the Federal Register when OMB approval is obtained.

Economic Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291 that this regulation does not constitute a "major" rule. A major rule is one that is likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Executive Order requires that, for major rules, we prepare a regulatory impact analysis which describes the potential benefits and costs of the rule, together with the potential benefits and costs of alternative approaches.

The regulation will have little or no net economic effect, because it will not change substantially the total amount that will be spent on medical care for dependent children of absent parents. The effect here is not the level of medical coverage but rather who will finance it—parents, third-party payors, and ultimately, employers and employees who pay premiums, versus the Medicaid program and taxpayers. As total expenditures will remain about the same, this regulation only results in a redistribution of resources.

As the purpose of this regulation is to provide enhancements of a limited nature to current medical support enforcement requirements, no effective alternatives to this approach were apparent. This regulation merely expands the audience of current medical support enforcement requirements to include certain targeted cases as identified by the State.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. This regulation will not have a significant economic impact on a

substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 45 CFR Part 306

Child Support, Grant programs/social programs, Medicaid, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 13.783, Child Support Enforcement Program)

Date: April 8, 1988.

Wayne A. Stanton,
Director, Office of Child Support
Enforcement.

Approved: June 30, 1988.

Otis R. Bowen,
Secretary.

PART 306—[AMENDED]

For the reasons set out in the preamble, 45 CFR Part 306 is amended as follows:

1. The authority citation for Part 306 is revised to read as set forth below:

Authority: 42 U.S.C. 652, 654(13), 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1986k.

2. 45 CFR 306.10 is amended by revising paragraph (g) to read as follows:

§ 306.10 Functions to be performed under a cooperative agreement.

* * * * *

(g) Secure health insurance coverage through court or administrative order.

* * * * *

§ 306.40 [Removed]

3. 45 CFR 306.40 is removed.

4. 45 CFR 306.51 is amended by revising paragraph (a) to read as follows:

§ 306.51 Securing and enforcing medical support obligations.

(a) For purposes of this section:

(1) Health insurance is considered reasonable in cost if it is employment-related or other group health insurance, regardless of service delivery mechanism.

(2) Health insurance includes fee for service, health maintenance organization, preferred provider organization, and other types of coverage under which medical services could be provided to the dependent child(ren) of an absent parent.

* * * * *

5. 45 CFR 306.51 is amended by redesignating paragraphs (b) (3), (4), (5) and (6) as (6), (7), (8) and (9) respectively and by inserting new paragraphs (b) (3), (4) and (5) as follows:

§ 306.51 Securing and enforcing medical support obligations.

(b) * * *

(3) Establish written criteria to identify cases not included under paragraphs (b)(1) and (b)(2) of this section where there is a high potential for obtaining medical support based on—

(i) Evidence that health insurance may be available to the absent parent at a reasonable cost, and

(ii) Facts, as defined by State law, regulation, procedure, or other directive, which are sufficient to warrant modification of the existing support order to include health insurance coverage for a dependent child(ren).

(4) Petition the court or administrative authority to modify support orders for cases identified in paragraph (b)(3) of this section to include medical support in the form of health insurance coverage.

(5) Provide the custodial parent with information pertaining to the health insurance policy which has been secured for the dependent child(ren) pursuant to an order obtained under this section.

[FR Doc. 88-20876 Filed 9-15-88; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****46 CFR Ch. I****[CGD 86-033]****Update of Cross References and Correction of U.S.C. Citations****AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Coast Guard is amending its regulations to update internal references to statutes and regulations affecting hazardous materials. This action is necessary because new legislation and the consolidation of hazardous materials regulations has made many internal references incorrect. These changes will make it easier to follow the Coast Guard regulations and related publications.

EFFECTIVE DATE: September 16, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Hazardous Materials Branch, Office of Marine Safety, Security, and Environmental Protection, (202) 267-1577.

SUPPLEMENTARY INFORMATION: Since 1976 a number of changes have occurred in the statutes and regulations affecting

the transportation of hazardous materials. Because of these changes the Coast Guard regulations now contain a number of incorrect or out of date authority citations and cross references to hazardous materials regulations. The purpose of this document is to correct those citations and references. The amendments in this document fall into the following three categories:

1. In 1976 a large part of the Coast Guard dangerous cargo (hazardous materials) regulations, which had been in 46 CFR Part 146, was transferred to Title 49, where the hazardous materials regulations of all the modes within the Department of Transportation were consolidated into Parts 171 through 179. Nearly all of 46 CFR Part 146 was revoked at that time. However, many cross-references to 46 CFR Part 146 or to 46 CFR Subchapter N in other parts of Title 46 were left unchanged. Since all of the referenced material has been replaced by provisions of 49 CFR Parts 171-179, these references are being amended to cite the appropriate provisions within Title 49.

2. Container standards previously under the jurisdiction of the Interstate Commerce Commission are now under the jurisdiction of the Department of Transportation. Therefore any references in the Coast Guard regulations to "ICC" container standards are being amended to refer to "DOT" packaging specifications.

3. In 1983 the U.S. Congress, in enacting Pub. L. 98-89, repealed the "Dangerous Cargo Act" formerly codified at 46 U.S.C. 170. In numerous places in the statutory authorities and the text of the Coast Guard regulations in 46 CFR Chapter I, references and citations to 46 U.S.C. 170 remain. These citations are being amended to delete the reference to 46 U.S.C. 170 and other corrections in the statutory authority citations are being made, as appropriate.

Notice of Proposed Rulemaking

This rule merely updates internal cross references and deletes references to 46 U.S.C. 170 and corrects other statutory authority citations. Therefore, under the provisions of 5 U.S.C. 553, this amendment is being issued as a final rule without publication of a notice of proposed rulemaking, which is unnecessary. Since the actions that necessitated these changes occurred several years ago, good cause exists for making these rules effective upon publication.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the DOT

regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rulemaking merely updates internal cross references and deletes references to 46 U.S.C. 170. There is no substantive effect on current Coast Guard regulations.

Regulatory Flexibility Evaluation

Since this rulemaking merely updates internal references, the Coast Guard certifies that there is no significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Analysis

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.1 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination has been prepared and is included as part of the regulatory package.

List of Subjects**46 CFR Part 2**

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 24

Marine safety.

46 CFR Part 25

Fire prevention, Marine safety.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 33

Cargo vessels, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 37

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection.

46 CFR Part 38

Cargo vessels, Fire prevention, Gases, Hazardous materials transportation, Marine safety.

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 94

Cargo vessels, Marine safety.

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 99

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements.

46 CFR Part 105

Cargo vessels, Fishing vessels, Hazardous materials transportation, Marine safety.

46 CFR Part 146

Arms and munitions, Hazardous materials transportation, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 147

Arms and munitions, Hazardous materials transportation, Marine safety, Packaging and containers.

46 CFR Part 147A

Fire prevention, Hazardous substances, Occupational safety and

health, Pesticides and pests, Seamen, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

46 CFR Part 194

Explosives, Hazardous materials transportation, Marine safety, Oceanographic research vessels.

46 CFR Part 195

Marine safety, Navigation (water), Oceanographic research vessels.

In consideration of the foregoing, the Coast Guard hereby amends 46 CFR Chapter I as set forth below.

PART 2—VESSEL INSPECTIONS

1. The authority citation for Part 2 is revised to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115, 8105; 46 App. U.S.C. 1295; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec. 27, 1950, ch. 1155, § 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

§ 2.01-7 [Amended]

2. The table in § 2.01-7(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171-179" are added in their place.

b. The words "46 CFR Part 146" are removed, wherever they appear, and the words "49 CFR Parts 171-179" are added in their place.

c. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171-179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law."

d. Footnote 12 is removed.

PART 24—GENERAL PROVISIONS

3. The authority citation for Part 24 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980, Comp., p. 277; 49 CFR 1.46.

§ 24.01-10 [Removed]

4. Section 24.01-10 is removed.

§ 24.05-1 [Amended]

5. The table in § 24.05-1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171-179" are added in their place.

b. The words "46 CFR Part 146" are removed, wherever they appear, and the words "49 CFR Parts 171-179" are added in their place.

c. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171-179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law."

d. Footnote 13 is removed.

PART 25—REQUIREMENTS

6. The authority citation for Part 25 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 4104, 4302; 49 CFR 1.46.

§ 25.45-1 [Amended]

7. Section 25.45-1 is amended by changing the phrase "Parts 146 and 147" to read "Part 147".

PART 30—GENERAL PROVISIONS

8. The authority citation for Part 30 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 30.01-2 also issued under the authority of 44 U.S.C. 3507.

§ 30.01-5 [Amended]

9. Section 30.01-5 is amended as follows:

a. In paragraphs (a)(1)(ii), (a)(2)(ii), and (a)(3)(iii), the words "Part 146 of this chapter" are replaced by "49 CFR Parts 171-179".

b. The table in paragraph (d) is amended as follows:

i. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171-179" are added in their place.

ii. The words "46 CFR Part 146" are removed, wherever they appear, and the words "49 CFR Parts 171-179" are added in their place.

iii. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171-179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law."

iv. Footnote 12 is removed.

§ 30.01-25 [Amended]

10. Section 30.01-25(c) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Parts 171-179".

PART 31—INSPECTION AND CERTIFICATION

11. The authority citation for Part 31 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j), 1607, 2071; 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; 49 CFR 1.46.

PART 33—LIFESAVING EQUIPMENT

12. The authority citation for Part 33 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3102, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 35—OPERATIONS

13. The authority citation for Part 35 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; 49 CFR 1.46.

§ 35.01-45 [Amended]

14. Section 35.01-45(d) is amended by changing "ICC" to "DOT".

§ 35.30-40 [Amended]

15. Section 35.30-40(a)(1) is amended by removing "ICC".

PART 37—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

16. The authority citation for Part 37 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 38—LIQUEFIED FLAMMABLE GASES

17. The authority citation for Part 38 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 38.01-1 [Amended]

18. Section 38.01-1(b) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Parts 171-179".

PART 50—GENERAL PROVISIONS

19. The authority citation for Part 50 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 50.01-20 also issued under the authority of 44 U.S.C. 3507.

§ 50.01-1 [Removed]

20. Section 50.01-1 is removed.

PART 61—PERIODIC TESTS AND INSPECTIONS

21. The authority citation for Part 61 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

22. Section 61.10-5(f) and (h)(1) are revised to read as follows:

§ 61.10-5 Periodic inspection.

(f) *Compressed gas or hazardous liquid pressure vessel tests.* Cargo tanks of pressure vessel configuration containing liquefied, compressed gases or hazardous liquids must be inspected and tested as required by the applicable regulations published in Subchapter D or Subchapter I of this chapter.

(h) *Pneumatic tests.* (1) Pressure vessels that were pneumatically tested before being stamped with the Coast Guard Symbol must be thoroughly examined internally and externally biennially at the regular inspection for certification accept in those instances where the inspection interval is prescribed otherwise, by the specific regulations applicable to the product carried, in Subchapter D. (Tank Vessels), Subchapter I (Cargo and Miscellaneous Vessels), or Subchapter I-A (Mobile Offshore Drilling Units) of this chapter. For those tanks whose design precludes a thorough internal or external examination, the thickness must be determined by a nondestructive

method acceptable to the Officer in Charge, Marine Inspection.

PART 70—GENERAL PROVISIONS

23. The authority citation for Part 70 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.45, 1.46. § 70.01-15 also issued under the authority of 44 U.S.C. 3507.

§ 70.01-10 [Removed]

24. Section 70.01-10 is removed.

§ 70.05-1 [Amended]

25. The table in § 70.05-1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171-179" are added in their place.

b. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171-179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law."

c. Footnote 12 is removed.

26. Section 70.05-12(c) is revised to read as follows:

§ 70.05-12 Application to vessels concerning nuclear energy.

(c) The regulations covering the transportation and handling of radioactive materials as cargo are in 49 CFR Parts 171-179.

27. Section 70.05-30 is amended by revising paragraph (a)(2) to read as follows:

§ 70.05-30 Combustible liquid cargo in bulk.

(a) * * *

(2) Grade D in a portable tank in accordance with 49 CFR Parts 171-179.

§ 70.10-44 [Amended]

28. Section 70.10-44 is amended by changing the last sentence to read: "In addition, preparation of automobiles prior to carriage, with the exception of disconnecting battery cables, must be in accordance with the applicable provisions of 49 CFR 176.905."

PART 78—OPERATIONS

29. The authority citation for Part 78 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 8105, 49 U.S.C. App. 1804; E.O. 11735 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

Subpart 78.80—[Amended]

30. The note at the end of § 78.80-1 is revised to read as follows:

§ 78.80-1 Application.

* * *

Note: The regulations affecting the use of power-operated industrial trucks on foreign vessels are in 49 CFR 176.78, or in the case of foreign tank vessels in Subpart 35.70 of Subchapter D (Tank Vessels) of this chapter.

31. Section 78.80-10(a)(1), Note, and (e) are revised to read as follows:

§ 78.80-10 Use of power-operated industrial truck in various locations.

(a) * * *

(1) * * *

Note: Class A, Class B, and Class C explosives are defined in 49 CFR Part 173.53, 173.88, and 173.100, respectively.

* * *

(e) *Spaces containing other hazardous materials.* In a space in which hazardous materials subject to 49 CFR Parts 171-179, except those provided for in paragraphs (a), (b), (c) or (d) of this section, are stowed, any approved power-operated industrial truck may be used to handle cargo including the handling of such hazardous materials.

* * *

32. Section 78.80-25(b)(3) is revised to read as follows:

§ 78.80-25 Charging or replacing batteries.

* * *

(b) * * *

(3) The hold shall not contain any cargo coming under the regulations in 49 CFR Parts 171-179.

* * *

§ 78.80-35 [Amended]

33. Section 78.80-35 is amended by changing the reference to "ICC" to "DOT", wherever it appears.

PART 90—GENERAL PROVISIONS

34. The authority citation for Part 90 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306 and 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 90.01-10 [Removed]

35. Section 90.01-10 is removed.

§ 90.05-1 [Amended]

36. The table in § 90.05-1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171-179" are added in their place.

b. Footnote 2 is revised to read as follows:

² Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171-179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

c. Footnote 12 is removed.

37. Section 90.05-35 is amended by revising paragraphs (a)(1)(ii) and (2)(iii) to read as follows:

§ 90.05-35 Flammable and combustible liquid cargo in bulk.

(a) * * *

(1) * * *

(ii) Hazardous materials in a portable tank in accordance with 49 CFR Parts 171-179, or in a marine portable tank approved for the material under Part 64 of this chapter.

* * *

(2) * * *

(iii) Hazardous materials in a portable tank in accordance with 49 CFR Parts 171-179, or in a marine portable tank approved for the material under Part 64 of this chapter.

38. Section 90.05-40(c) is revised to read as follows:

§ 90.05-40 Application to vessels concerning nuclear energy.

* * *

(c) The regulations covering the transportation and handling of radioactive materials as cargo are in 49 CFR Parts 171-179.

* * *

§ 90.10-38 [Amended]

39. Section 90.10-38 is amended by changing the last sentence to read: "In addition, preparation of automobiles prior to carriage, with the exception of disconnecting battery cables, must be in accordance with the applicable provisions of 49 CFR 176.905."

PART 94—LIFESAVING EQUIPMENT

40. The authority citation for Part 94 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 97—OPERATIONS

41. The authority citation for Part 97 continues to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; 49 U.S.C. App 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

42. The note at the end of § 97.70-1 is revised to read as follows:

§ 97.70-1 Application.

* * *

Note: The regulations affecting the use of power-operated industrial trucks on foreign vessels are in 49 CFR 176.78, or in the case of foreign tank vessels in Subpart 35.70 of Subchapter D (Tank Vessels) of this chapter.

43. Section 97.70-10(a)(1), Note, and (e)(1) are revised to read as follows:

§ 97.70-10 Use of power-operated industrial trucks in various locations.

(a) * * *

(1) * * *

Note: Class A, Class B, or Class C explosives are defined in 49 CFR 173.53, 173.88, and 173.100, respectively.

* * *

(e) *Spaces containing other hazardous materials.* (1) In a space in which hazardous materials subject to the regulations in 49 CFR Parts 171-179, except those provided for in paragraphs (a), (b), (c) and (d) of this section, are stowed, any approved power-operated industrial truck may be used to handle cargo including the handling of such dangerous cargoes or hazardous materials.

* * *

44. Section 97.70-25(b)(3) is revised to read as follows:

§ 97.70-25 Charging or replacing batteries.

* * *

(b) * * *

(3) The hold shall not contain any cargo coming under the regulations in 49 CFR Parts 171-179.

* * *

§ 97.70-35 [Amended]

45. Section 97.70-35 is amended by changing the reference to "ICC" to "DOT", wherever it appears.

PART 99—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

46. The authority citation for Part 99 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

47. The authority citation for Part 105 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp., p. 793; 49 CFR 1.46.

PART 146—TRANSPORTATION OR STORAGE OF MILITARY EXPLOSIVES ON BOARD VESSELS

48. The authority citation for Part 146 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 146.01-5 also issued under the authority of 44 U.S.C. 3507.

PART 147—REGULATIONS GOVERNING USE OF DANGEROUS ARTICLES AS SHIPS' STORES AND SUPPLIES ON BOARD VESSELS

49. The authority citation for Part 147 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 147A—INTERIM REGULATIONS FOR SHIPBOARD FUMIGATION

50. The authority citation for Part 147A is revised to read as follows:

Authority: 49 U.S.C. App. 1804; 49 CFR 1.46.

51. Section 147A.3 is revised to read as follows:

§ 147A.3 Applicability.

This part prescribes the rules for shipboard fumigation on vessels to which 49 CFR Parts 171-179 apply under 49 CFR 176.5.

PART 175—GENERAL PROVISIONS

52. The authority citation for Part 175 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 175.01-3 also issued under the authority of 44 U.S.C. 3507.

§ 175.05-1 [Amended]

53. The table in § 175.05-1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171-179" are added in their place.

b. Footnote 2 is revised to read as follows:

² Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171-179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

c. Footnote 12 is removed.

PART 176—INSPECTION AND CERTIFICATION

54. The authority citation for Part 176 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 8105; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR 1971-1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

PART 188—GENERAL PROVISIONS

55. The authority citation for Part 188 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 2113, 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 188.01-10 [Removed]

56. Section 188.01-10 is removed.

§ 188.05-1 [Amended]

57. The table in § 188.05-1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171-179" are added in their place.

b. Footnote 2 is revised to read as follows:

² Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171-179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

c. Footnote 12 is removed.

58. Section 188.05-2(b) is revised to read as follows:

§ 188.05-2 Exemptions from inspection laws for oceanographic research vessels and terms and conditions which apply in lieu thereof.

(b) The oceanographic research vessel shall comply with 49 CFR Parts 171-179 whenever applicable, except to the extent as specifically provided otherwise in this subchapter.

59. Section 188.05-15(c) is revised to read as follows:

§ 188.05-15 Application to vessels concerning nuclear energy.

(c) The regulations covering the transportation and handling of radioactive materials as cargo are in 49 CFR Parts 171-179.

§ 188.10-3 [Amended]

60. Section 188.10-3 is amended by changing "ICC" to "DOT".

§ 188.10-21 [Amended]

61. Section 188.10-21 is amended by changing the last sentence to read: "Compressed gases are discussed in more detail in 49 CFR Parts 171-179."

§ 188.10-25 [Amended]

62. Section 188.10-25 is amended by changing the last sentence to read: "Explosives are discussed in more detail in 49 CFR Parts 171-179."

63. Section 188.10-37 is revised to read as follows:

§ 188.10-37 Label.

This term means the label required by 49 CFR Part 172 to be affixed to containers of explosives or other hazardous materials.

§ 188.10-73 [Amended]

64. Section 188.10-73 is amended by removing "Parts 146 or 147" and inserting "Part 147" in its place.

65. The title of Part 194 is revised to read as follows:

PART 194—HANDLING, USE AND CONTROL OF EXPLOSIVES AND OTHER HAZARDOUS MATERIALS

66. The authority citation for Part 194 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 194.01-1 [Amended]

67. Section 194.01-1(c) is amended by removing "Part 145 of Subchapter N (Dangerous Cargoes) of this chapter"

and inserting "49 CFR Parts 171-179" in its place.

68. Section 194.05-1(b) is revised to read as follows:

§ 194.05-1 General.

(b) Chemical stores shall be stowed in a chemical storeroom in approved drums, barrels, or other packages, properly marked and labeled, as prescribed by 49 CFR Part 172 for those specific commodities, except that those chemical stores excluded from the storeroom by §§ 194.20-15 and 194.20-17, and those chemical stores not desired to be located in a chemical storeroom, shall be stored in accordance with the appropriate provisions of 49 CFR Part 176 insofar as such regulations apply to cargo vessels.

69. Section 194.05-3 is revised to read as follows:

§ 194.05-3 Chemical stores.

(a) Chemical stores are those chemicals which possess one or more of the following properties and shall be classed, marked and labeled in accordance with 49 CFR Part 172:

- (1) Explosives.
- (2) Flammable liquids.
- (3) Flammable solids.
- (4) Oxidizing materials.
- (5) Corrosive materials.
- (6) Compressed gasses.
- (7) Poisons.
- (8) Combustible liquids.
- (9) Other Regulated Materials (DOT Hazard Class "ORM").

(b) Substances for use in the chemistry laboratory, or to be stored in the chemical storeroom and generally covered under paragraph (a) of this section but not specifically listed by name in 49 CFR 172.101 must be approved by the Commandant prior to being carried on board a vessel.

§ 194.05-5 [Amended]

70. Section 194.05-5(a) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Part 172".

71. Section 194.05-7 (a), (b), and (c)(1) are revised to read as follows:

§ 194.05-7 Explosives—Detail requirements.

(a) Except as otherwise provided by this part, Class A explosives and blasting caps shall be carried in magazines specifically fitted for that purpose as described in Subpart 194.10.

(b) Military explosives shall be identified by their appropriate DOT classification.

(c)(1) Compatibility of magazine stowage shall be in accordance with 49 CFR 176.83.

§ 194.05-9 [Amended]

72. Section 194.05-9(b) is amended by changing "Subpart 146.21 of Part 146" to "49 CFR Parts 172, 173, and 179".

§ 194.05-11 [Amended]

73. Section 194.05-11(b) is amended by changing "Subpart 146.22 of Part 146" to "49 CFR Parts 172, 173, and 179".

§ 194.05-13 [Amended]

74. Section 194.05-13(b) is amended by changing "Subpart 146.23 of Part 146" to "49 CFR Parts 172, 173, and 176".

§ 194.05-15 [Amended]

75. Section 194.05-15(b) is amended by changing "Subpart 146.24 of Part 146" to "49 CFR Parts 172, 173, and 176".

§ 194.05-17 [Amended]

76. Section 194.05-17(b) is amended by changing "Subpart 146.25 of Part 146" to "49 CFR Parts 172, 173, and 176".

§ 194.05-19 [Amended]

77. Section 194.05-19(b) is amended by changing "Subpart 146.26 of Part 146" to "49 CFR Parts 172, 173, and 176".

78. Section 194.05-21 is revised to read as follows:

§ 194.05-21 Other regulated materials.

(a) Other Regulated Materials (DOT Hazard Class "ORM") as chemical stores and reagents shall be governed by appropriate portions of Subparts 194.15 and 194.20 of this part.

(b) Other Regulated Materials (DOT Hazard Class "ORM") which are not chemical stores and reagents shall be regulated by the appropriate portions of 49 CFR Parts 172, 173, and 176.

§ 194.10-1 [Amended]

79. Section 194.10-1(b) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Parts 173 and 176".

80. Section 194.10-5(b)(2) is revised to read as follows:

§ 194.10-5 Type and location.

(b) * * *

(2) Magazine vans may be installed below decks in holds provided the hold location meets the location requirements for integral magazines. The cofferdam requirement of paragraph (a)(3) of this section is considered as fulfilled if the van is of steel construction. Holds so utilized shall not be used for stowage of other hazardous materials covered by 49 CFR Parts 171-179. The stowage of other

explosives or oxidizing materials in the same hold is permitted in accordance with the requirements of 49 CFR Part 176.

§ 194.10-35 [Amended]

81. Section 194.10-35(e) is amended by changing "§ 146.09-6 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR 176.150".

82. Section 194.15-15 is revised to read as follows:

§ 194.15-15 Chemicals other than compressed gases.

Chemicals, including those listed in 49 CFR Part 172, may be stored in small working quantities in the chemical laboratory.

§ 194.15-17 [Amended]

83. Section 194.15-17(a) is amended by changing "§ 146.24-15(d) of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR 173.301(g)".

§ 194.20-15 [Amended]

84. Section 194.20-15 is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Part 172" in paragraphs (d) and (f).

85. Section 194.20-17 (b) and (c) are revised to read as follows:

§ 194.20-17 Compressed gases.

(b) Flammable compressed gases and oxygen shall be stowed in accordance with 49 CFR Part 176, Subpart H.

(c) Compressed gas cylinders shall have valve protection in accordance with 49 CFR 173.301(g) and shall be safely stowed in a vertical position in suitable racks.

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

86. The authority citation for Part 195 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1/48; 49 CFR 1.46.

87. Section 195.11-30(c) is revised to read as follows:

§ 195.11-30 Portable tanks.

(c) Portable tanks containing other hazardous materials shall be in accordance with the requirements of 49 CFR Parts 171-179.

Dated: September 8, 1988.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief,
Office of Marine Safety, Security and
Environmental Protection.

[FR Doc. 88-21158 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[Federal Acquisition Circular 84-38]

Federal Acquisition Regulation (FAR); Miscellaneous Amendments; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments and final rule; correction.

SUMMARY: This document corrects the effective date of four clauses in a final rule in Federal Acquisition Circular (FAC) 84-38 published in the Federal Register on Wednesday, July 20, 1988 (53 FR 27460).

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 16269 beginning on page 27460, make the following correction:

52.213-1 [Corrected]

1. On page 27468, in the second column of the Item 53 amendatory language, remove the date "(JUL 1988)" and insert in its place "(AUG 1988)", the effective date of the final rule.

52.219-4 [Corrected]

2. On page 27468, in the second column, remove in the title of the clause the date "(JUL 1988)" and insert in its place "(AUG 1988)", the effective date of the final rule.

52.225-3 [Corrected]

3. On page 27468, in the second column, remove in the Item 55 amendatory language the date "(JUL 1988)" and insert in its place "(AUG 1988)", the effective date of the final rule.

52.245-18 [Corrected]

4. On page 27468, in the third column, remove in the Item 56 amendatory language the date "(JUL 1988)" and insert in its place the date "(AUG 1988)", the effective date of the final rule.

Dated: September 12, 1988.

Roger M. Schwartz,

Acting Director, Office of Federal Acquisition
and Regulatory Policy.

[FR Doc. 88-21115 Filed 9-15-88; 8:45 am]

BILLING CODE 6820-61-M

48 CFR Part 52

[Federal Acquisition Circular 84-39]

Federal Acquisition Regulation (FAR); Miscellaneous Amendments; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule in Federal Acquisition Circular (FAC) 84-39 published in the Federal Register on Friday, September 2, 1988 (53 FR 34224).

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 88-19950, beginning on page 34224, make the following correction:

52.203-7 [Corrected]

1. On page 34228, third column, remove in the Item 21 amendatory language, the date "(XXX 1988)" and insert in its place "(OCT 1988)".

52.209-1 [Corrected]

2. On page 34229, first column, remove in the title clause the date "(XXX 1988)" and insert in its place "(OCT 1988)".

52.229-10 [Corrected]

3. On page 34229, second column, remove in the title of the clause the date "(XXX 1988)" and insert in its place "(OCT 1988)".

Dated: September 12, 1988.

Roger M. Schwartz,

Acting Director, Office of Federal Acquisition
and Regulatory Policy.

[FR Doc. 88-21116 Filed 9-15-88; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-98, Amdt. 192-60]

Exception From Pressure Testing Non- Welded Tie-In Joints

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: Under existing requirements, welded joints used to tie in test segments are excepted from pressure testing because of the impracticability of conducting the test. This final rule extends this exception to non-welded tie-in joints because they are equally impracticable to pressure test. However, the final rule requires that all excepted tie-in joints be leak tested at operating pressure. Since RSPA believes current operating and enforcement practices are consistent with the final rule, a minimal economic and safety impact is anticipated.

EFFECTIVE DATE: This final rule takes effect October 17, 1988.

FOR FURTHER INFORMATION CONTACT: Bernard Liebler, (202) 366-2392, regarding changes to safety standards; or the Dockets Unit, (202) 366-5046, for copies of this final rule or other material in the docket.

SUPPLEMENTARY INFORMATION: Subpart J of Part 192 requires that gas pipelines be pressure tested to detect potentially hazardous leaks and, in some cases, to substantiate maximum allowable operating pressure. However, § 192.503(d) excepts from the pressure test requirements of Subpart J welds used to tie in test segments of pipeline because of the impracticability of pressure testing these welds. Notice 1 of this proceeding (53 FR 1045, January 15, 1988) proposed extending this exception to non-welded tie-in joints for the same reason of impracticability.

Thirty commenters responded to Notice 1 (3 trade groups, 2 State agencies, 25 operators). The commenters unanimously supported the proposed change, but a few expressed reservations.

Four commenters asserted that the word "joint" has two separate meanings in the gas industry: (1) A length of pipe; and (2) the connection between two lengths of pipe. They argued that this duality of meaning could in rare cases lead to misinterpretation of the exception from testing. RSPA disagrees with their contention. The word "joint"