materials, (g) (introductory language) and (g)(2)

(11) § 382.45 (a), (c)

(12) § 382.47 (a), with respect to acquisition of telecommunications devices for the deaf

(13) § 382.49 (b), (c)

(14) § 382.51

(15) § 382.53 (c)

(16) § 382.65 (a), (b)(2)

§ 382.43 [Amended]

3. Section 382.43 is amended, in paragraph (b), by removing the word "flights" and adding the word "transportation".

[FR Doc. 90-7750 Filed 3-30-90; 4:04 pm]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 142 and 178

[T.D. 90-25]

RIN 1515-AA88

Manufacturer/Seller Identification Required at Time of Entry

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by requiring that importers provide the name and address of the manufacturer or seller of imported merchandise on each invoice. The addition of this information on the invoice is necessary to enhance Customs ability to perform its cargo documentation and improve the overall efforts to process entries as expeditiously as possible with a minimum of processing delays. Notice of Customs intent to require this information was announced in the **Federal Register** on November 13, 1989, and comments were sought on the proposal. Minor modifications have been made in the language of the amendment to eliminate the concerns and difficulties raised in comments. However, the basic information being sought in the final version remains the same as that in the proposal. Because the amendment requires submission of information to Customs, part 178, the list of sections which contain approved collections of information is also being amended.

EFFECTIVE DATE: May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia Flynn, Office of Inspection and Control, U.S. Customs Service (202) 566-5354.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the U.S. Customs Service has been increasing its use of automated information-processing technology in order to provide quicker, more efficient service to importers. A principal element of this effort has been the adoption of the Automated Commercial System (ACS). Through this system, importers are able to have their merchandise quickly cleared through the entry documentation process. One of the critical elements which enables the ACS process to function efficiently is an item known as the "Manufacturer ID" (MID code). This is a standardized code which is intended to provide a unique piece of data which can be used in various automated systems. Instructions for constructing this code element were provided to the public in T.D. 87-88, 52 FR 24034, June 26, 1987. Use of this MID code was required as of July 27, 1987, for all forms processed through the cargo selectivity module of the ACS.

When the MID code requirement was implemented, Customs had no record of many of the manufacturers for whom ID's were being developed and submitted. Additionally, "new" manufacturers whose identity cannot be readily verified appear constantly.

The Customs Service has established an automated system to process all formal entries and to select those shipments that are high risk for intensive examinations or scrutiny. At the present time, approximately 80 percent of all cargo shipments are released without an extensive Customs examination, or with only a review of the documentation. For ACS cargo selectivity entry processing to work efficiently, it is necessary that the system be able to verify the MID code against a known manufacturer's or seller's name and address. The MID code provided at entry must be verified if Customs is to be confident that the entry processing system and examination designations assigned shipments are proper. The address is absolutely necessary to determine and construct the unique identifier for the manufacturer or seller in ACS. Without this information, the usefulness of the Customs ACS history files will be lessened.

The ACS is currently faced with a large number of "pending MID's" (MID codes which have been filed with Customs, but which are not currently associated with a specific manufacturer or seller name and address) and incorrect MID codes. The efficient operation of the system is disrupted whenever it encounters one of these unvalidated MID codes.

Because Customs needs this information at the time of entry, an amendment to the Customs Regulations was proposed and published in the **Federal Register** on November 13, 1989 (54 FR 47219). The information being required by this amendment will be used to verify data provided at the time of entry filing to ensure that the data used in selecting shipments for examinations is valid. This amendment is intended to provide Customs with the information which will enable it to eliminate or greatly reduce the numbers of these unvalidated MID codes.

The information required by this amendment is not duplicated under existing Customs Regulations in any other phase of the entry processing system. Section 141.61 describes the manner in which entry documents and forms must be completed. Section 142.3 sets forth entry documentation requirements. Section 142.6(a) sets forth the required contents of the invoice to be submitted at the time of entry. Currently, the invoice must contain an adequate description of the merchandise, the quantity of the merchandise, the value of the merchandise and the appropriate tariff code. Information regarding the manufacturer/seller is not required on the invoice, but is optional. Section 141.86 sets forth the required contents of the invoice for submission with the entry summary. This summary must be filed no later than 10 days after the filing of the entry documentation. Again, the regulations provide the importer with the option of providing information on either the seller or the shipper of the merchandise, neither of which may be the actual manufacturer.

As originally proposed, § 142.6 would have been amended by adding a new paragraph (5) which read:

(5) The name and complete address of the individual or firm who is responsible for invoicing the merchandise (for example, the manufacturer or the shipper).

Discussion of Comments

Customs received seven comments on the proposed amendment from members of the public. While none of the comments expressed vigorous opposition to the proposed amendment, several did raise questions which have resulted in minor modifications to the language of the amendment.

Comment: Several comments expressed concern that importers would face significant difficulties if Customs adopted regulations which required that the manufacturer of imported merchandise be identified on the invoice. One instance cited where difficulties could arise would be when importers contract with foreign vendors for merchandise. The vendors might then sub-contract with a variety of manufacturers whose joint product would then be consolidated in the shipment. Another instance would be where merchandise was obtained from trading companies which deal in generic commodities; the identity of the actual manufacturer might be unavailable and unknown to the importer.

Response: Although in the great majority of situations, the manufacturer will be the seller of the merchandise, Customs acknowledges that there will probably be instances where the actual identity of the true manufacturer of the merchandise cannot be ascertained. For this reason, the proposed amendment has been modified to allow the importer to supply Customs with the name and complete address of the individual or firm who sells the merchandise in those situations where the actual manufacturer cannot be identified. The information Customs needs is the identity of the foreign person or firm who is responsible for introducing the merchandise into the U.S. stream of commerce. This amendment is intended to satisfy that need.

Comment: Some comments stated that the Supplementary Information in the Notice of Proposed Rulemaking did not provide the public sufficient information to justify the requirement that this additional information be provided on the invoice and that Customs has not established how receipt of this information will enable it to perform any of the regular Customs functions of classifying, appraising or determining admissability of merchandise.

Response: Customs believes that the Background section of the Notice adequately reflected the need for the requirement. The Background section of this document more fully explains how receipt of the information required by this amendment will enable Customs to improve cargo handling for all importers. Enabling the ACS to operate at maximum efficiency is in the best interest of all importers, and the addition of this information will improve overall Customs operations.

Comment: Some comments asked that the scope of the amendment be expanded to require that the name and address of both the seller and manufacturer of specific types of merchandise be included on the invoice. Concerns were expressed over interrelationships between sellers and manufacturers of this product which might otherwise be overlooked by Customs.

Response: Customs acknowledges that there are specific product categories which require more detailed information to assure full compliance with the law. Customs will continue to study the feasibility of implementing suggestions made in the comments. However, at this time, Customs is not prepared to expand the scope of the amendment to include additional information for particular products.

Determination

After consideration of all the comments received in response to the notice of proposed rulemaking, and upon further review of the matter, it has been determined to adopt the amendment with the modifications discussed.

Paperwork Reduction Act

The collection of information in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1515–0170.

The estimated average burden associated with this collection of information is 12 hours per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden and suggestions for reducing this burden should be directed to the U.S. Customs Service, Attention: Paperwork Management Office, 1301 Constitution Avenue, NW., Washington, DC 20229, or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Executive Order 12291

This is not a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that these amendments will not have a significant impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 142

Customs duties and inspection, Imports.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendments to the Regulations

Parts 142 and 178 of the Customs Regulations (19 CFR parts 142 and 178) are amended as set forth below:

PART 142—ENTRY PROCESS

1. The authority for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. In § 142.6, paragraph (a) introductory text is republished and a new paragraph (a)(5) is added to read as follows:

§ 142.6 Invoice requirements.

(a) *Contents.* The commercial invoice, or the documentation acceptable in place of a commercial invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

* * * * *

(5) The name and complete address of the foreign individual or firm who is responsible for invoicing the merchandise, ordinarily the manufacturer/seller, but where the manufacturer is not the seller, the party who sold the merchandise for export to the U.S., or made the merchandise available for sale.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding the following in the appropriate numerical sequence according to the section number under the column indicated:

§ 178.2 Listing of OMB Control Numbers.

19 CFR section	Description	OMB control number
*	* *	*
§ 142.6	Name and address of manufacturer or seller.	1515–0170
*	* *	*

Carol Hallett,
Commissioner of Customs.

Approved: March 27, 1990.

Peter K. Nunez,
Assistant Secretary of the Treasury.

[FR Doc. 90–7530 Filed 4–2–90; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 87F–0380]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 4,4'-diamino-[1,1'-bianthracene]-9,9',10,10'-tetrone as a colorant in polymers intended to contact food. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective April 3, 1990; written objections and requests for a hearing by May 3, 1990.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 11, 1988 (53 FR 643), FDA announced that a food additive petition (FAP 7B4024) had been filed by Ciba-Geigy Corp., Seven (formerly Three) Skyline Dr., Hawthorne, NY 10532–2188, proposing that § 178.3297 Colorants for polymers (21 CFR 178.3297) be amended to provide for the safe use of 4,4'-diamino-[1,1'-bianthracene]-9,9',10,10'-tetrone as a colorant in food-contact polymers.

FDA has evaluated data in the petition and other relevant material. The agency concludes that these data and material establish the safety of the level of use of the additive in the manufacture of polymers, and that the regulations should be amended in § 178.3297 as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 3, 1990 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3297 is amended in paragraph (e) by alphabetically adding a new entry to the table to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
* * *	* *
4,4'-Diamino-[1,1'-bianthracene]-9,9',10,10'-tetrone (CAS Reg. No. 4051–63–2).	For use at levels not to exceed 1 percent by weight of polymers. The finished articles are to contact food only under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.
* * *	* *

Dated: March 23, 1990.

Fred R. Shank,
Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–7581 Filed 04–02–90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8297]

RIN 1545–AM49

Time and Place of Examination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that set forth the policy of the Internal Revenue Service concerning the time and place for conducting examinations. The Service is issuing these regulations pursuant to section 6228(b) of subtitle J, Title VI of the Technical and Miscellaneous Revenue Act of 1988, the Omnibus Taxpayer Bill of Rights. The regulations set forth general criteria to be utilized by Internal Revenue Service officers and employees in setting a time and place of examination that are reasonable under the circumstances. It is the goal of these regulations to balance the convenience of the taxpayer with the requirements of sound and efficient tax administration. These temporary regulations also cross-reference a notice of proposed rulemaking in this issue of the **Federal Register**.

EFFECTIVE DATE: The regulations as to time and place of examination are effective as of June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy O. Ryan, 202–535–9678 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 7605 of the Internal Revenue Code. Section 7605(a) of the Internal Revenue Code states that the time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall be such time and place as may be fixed by the Secretary and as are reasonable under the circumstances. The existing regulations provide, in general terms, that the time and place for examination shall be fixed by an officer or employee of the Internal Revenue Service and shall be reasonable under the circumstances.

Section 6228(b) of subtitle J, title VI of the Technical and Miscellaneous Revenue Act of 1988, the Omnibus Taxpayer Bill of Rights, directs that additional regulations be promulgated governing the setting of the time and place for examinations. In keeping with both the spirit of that legislation and the policy of the Service, it is the goal of these regulations that the Service officer or employee setting the time and place for examination will in all cases balance the convenience of the taxpayer with the requirements of sound and efficient tax administration.

Need for Temporary Regulations

The provisions contained in this Treasury decision are needed to promulgate temporary regulations immediately in response to enactment of section 6228(b) of the Technical and Miscellaneous Revenue Act of 1988. It is therefore found impracticable and contrary to the public interest to issue this Treasury decision with prior notice and public procedure under section 553(b) of title 5 of the United States Code.

Explanation of Provisions

The current regulations under section 7605 of the Internal Revenue Code permit an officer or employee of the Internal Revenue Service to determine the time and place of examination on a case-by-case basis. The existing regulations do not, however, provide guidance as to what is reasonable under the circumstances. The amended regulations set forth standards to be considered by Service officers and employees in determining a reasonable time and place for examination. The amended regulations provide that, based on these standards, Service officers and employees shall endeavor at all times to schedule a time and place that are reasonable under the circumstances. The regulations require the Service officer or employee to exercise sound judgment in applying these standards to the circumstances at hand, balancing the interest of convenience of the taxpayer with the requirements of sound and efficient tax administration.

In view of constraints necessarily placed on the Service, the proposed regulations provide that it will be considered reasonable for the Service to require that an examination be scheduled on a normally scheduled workday of the Service, during the Service's normal duty hours. Similarly, to permit the administration of the tax code in an orderly manner, the regulations provide that the Service may schedule examinations throughout the year, without making special accommodations to seasonal fluctuations in the taxpayer's or the taxpayer's representative's business. The regulations contemplate the Service will work with taxpayers or their representatives to attempt to minimize any adverse effects from scheduling the date and time of an examination.

Generally, the Service will determine whether an examination will be an office examination (*i.e.*, an examination conducted at a Service office) or a field examination (*i.e.*, an examination conducted at the taxpayer's residence or place of business, or some other location other than a Service office) based upon the complexity of the return and which form of examination will be more conducive to effective and efficient tax administration. The Service will grant a request to hold an office examination at a location other than a Service office in a case of clear need, such as when the taxpayer's advanced age or infirm physical condition make it unreasonably difficult to travel to a Service office.

With regard to place of examination, the temporary regulations generally provide that the initial determination of where an examination will take place, including the district to which an examination will be assigned, will be made by the Service based upon the address shown on the return for the period selected for examination. Written requests by taxpayers or their representatives to transfer the place for examination will be considered and resolved on a case-by-case basis.

The regulations provide generally that in the case of an office examination (which are performed only with respect to individual taxpayers), the Service will set the place of examination at the Service office within the assigned district that is closest to the taxpayer's residence. If the closest office does not have an examination group or the personnel needed to conduct the examination, however, the Service is generally permitted to schedule the examination at the closest Service office within the assigned district that has an examination group or the appropriate personnel.

With regard to returns selected by the Service for field examinations, the examination generally will take place at the location where the original books, records, and source documents pertinent to the examination are maintained. This will usually be at the taxpayer's residence or principal place of business.

The Service generally will not conduct an examination at the taxpayer's place of business if the business is so small that doing so will essentially require the taxpayer to close the business or would unduly disrupt business operations. The regulations provide for a procedure under which a taxpayer may advise the Service in writing that an examination at the taxpayer's place of business would essentially require closing the business. The Service, upon verification, will then make arrangements to conduct the examination at a Service office within the district in which the original books, records, and source documents are maintained. Notwithstanding that the examination is moved to a Service office, however, the Service will not be precluded from visiting the taxpayer's place of business during the Service's normal duty hours to establish facts which can only be established by a direct visit, such as inventory or asset verifications.

The regulations provide that taxpayers may make written requests to the Service to change the place of examination, and set forth the general criteria to be used by the Service in responding to these requests. In considering requests to change the place of examination, the Service will normally take into account the following factors: The location of taxpayer's current residence; the location of the taxpayer's current principal place of business; the location at which the taxpayer's books, records, and source documents are maintained; the location at which the service can perform the examination most efficiently; the resources available at the Service office to which the taxpayer has requested a transfer; and other factors that indicate that conducting the examination at a particular location could pose undue inconvenience to the taxpayer.

The regulations provide that the Service generally will not adjust the place of an examination based upon the location of the place of business of the taxpayer's representative. In addition, the Service may not accommodate a taxpayer's request for transfer when the expiration of the applicable statute of limitations on assessment or collection is less than thirteen months from the date of the taxpayer's written transfer request, unless the taxpayer has agreed to an extension of the limitations period. The Service also is not required to transfer an examination to an office or district that does not have adequate resources available to conduct the examination.

The regulations indicate that, in all circumstances, the Service may take into account the physical safety of its personnel in setting the place of an examination. Therefore, the Service may not be required to conduct a particular examination at the taxpayer's residence or place of business. When it appears that the possibility of physical danger exists, the Service shall transfer the examination to a Service office and may take any other steps reasonably necessary to protect its officers and employees.

The regulations also provide that nothing in the regulations shall be interpreted as preventing the Service from transferring an examination on its own initiative in order to further the effectiveness and efficiency of the examination, based upon the criteria set forth in the regulations.

Examinations which fall under the jurisdiction of the Office of the Assistant Commissioner (International) sometimes involve unique circumstances because of the presence of a taxpayer or a Service officer or employee in a foreign country, because of special treaty provisions, or for other reasons. The regulations provide that the criteria set forth in the regulations generally will be used as guidelines for these examinations. Where, however, there is a conflict between the criteria in the regulations and the established policies and procedures of the Office of the Assistant Commissioner (International), those policies and procedures will govern.

The legislative history of section 6228 of TAMARA indicates that the provisions relating to taxpayer interviews generally do not apply to criminal investigations. The amended regulations provide that, except for the statutory ten-day period that must be allowed whenever an administrative summons is used, the regulations do not apply to criminal investigations. The criteria set forth in the regulations therefore govern only the time and place of civil examinations under I.R.C. section 7602(a).

Special Analyses

It has been determined that these rules are related to agency organization, management, or personnel and are not subject to Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Additionally, section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Nancy O. Ryan of General Litigation, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Disclosure of information, Employment taxes, Estate tax, Excise taxes, Filing requirements, Gift tax, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes.

Adoption of Addition to the Regulations

Accordingly, Title 26, part 301 of the Code of Federal Regulations is amended as follows.

PART 301—[AMENDED]

Paragraph 1. The authority citation for part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * § 301.7605–1T also issued under section 6228(b) of the Technical and Miscellaneous Revenue Act of 1988.

§ 301.7605–1 [Amended]

Par. 2. In § 301.7605–1, the heading and text for paragraph (a) are removed and paragraph (a) is reserved.

Par. 3. Section 301.7605–1T is added immediately following § 301.7605–1 to read as follows:

§ 301.7605–1T Time and place of examination (temporary).

(a)(1) *In general.* The time and place of examination pursuant to the provisions of sections 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 of the Internal Revenue Code shall be such time and place as are fixed by an officer or employee of the Internal Revenue Service, and officers and employees shall endeavor at all times to schedule a time and place that are reasonable under the circumstances. This regulation set forth general criteria for the Service to apply in determining whether a particular time and place for an examination are reasonable under the circumstances. Officers and employees should exercise sound judgment in applying these criteria to the circumstances at hand and should balance convenience of the taxpayer with the requirements of sound and efficient tax administration.

(2) *International examinations.* The criteria in these regulations generally will be used as guidelines for setting the time and place for examinations which fall under the jurisdiction of the Office of the Assistant Commissioner (International). However, if there is a conflict between these regulations and the established policies and procedures of the Office of the Assistant Commissioner (International), the policies and procedures of the Office of the Assistant Commissioner (International) will govern.

(3) *Criminal investigations.* Except for the provisions of paragraph (b)(2) of this section, these regulations do not apply to criminal investigations

(b) *Time of examination*—(1) *Date and time of examination.* It will be considered reasonable for the Service to schedule the day (or days) for an examination during a normally scheduled workday (or workdays) of the Service, during the Service's normal business hours. It will be considered reasonable for the Service to schedule examinations throughout the year, without reference to seasonal fluctuations in the businesses of particular taxpayers or their representatives. However, the Service will work with taxpayers or their representatives to try to minimize any adverse effects in scheduling the date and time of an examination.

(2) *Date of appearance when summons is used.* In the case of a summons issued under authority of section 7602(a)(2) of the Internal Revenue Code, or under the corresponding authority of sections 6420(e)(2), 6421(g)(2), or 6427(j)(2), the date fixed for appearance before an officer or employee of the Service shall not be less than 10 days from the date of the summons.

(c) *Type of examination*—(1) *In general.* The Service will determine whether an examination will be an office examination (*i.e.*, an examination conducted at a Service office) or a field examination (*i.e.*, an examination conducted at the taxpayer's residence or place of business, or some other location that is not a Service office), based upon the complexity of the return and which form of examination will be more conducive to effective and efficient tax administration.

(2) *Office examination held in location other than Service office in case of clear need.* The Service will grant a request to hold an office examination at a location other than a Service office in a case of clear need, such as when it would be unreasonably difficult for the taxpayer to travel to a Service office because of the taxpayer's advanced age or infirm physical condition.

(d) *Place of examination*—(1) *In general.* The Service will make an initial determination of the place for an examination, including the district to which an examination will be assigned, based upon the address shown on the return for the period selected for examination. Requests by taxpayers to transfer the place of examination will be resolved on a case-by-case basis, using the criteria set forth in paragraph (e) of this section.

(2) *Office examinations*—(i) *In general.* An office examination will generally take place at the Service office, within the Internal Revenue Service district encompassing the taxpayer's residence, which is closest to the taxpayer's residence. It is generally not reasonable for the Service to require a taxpayer to attend an examination at an office within an assigned district other than the office closest to the taxpayer's residence.

(ii) *Exception.* When the office within the assigned district closest to the taxpayer's residence does not have an examination group or the appropriate personnel to conduct the examination, it generally is reasonable for the Service to require the taxpayer to attend an examination at the office within the assigned district closest to the taxpayer's residence that has an examination group or the appropriate personnel.

(3) *Field examinations*—(i) *In general.* A field examination will generally take place at the location where the taxpayer's original books, records, and source documents pertinent to the examination are maintained. This will usually be the taxpayer's residence or principal place of business.

(ii) *Exception for certain small businesses*—The Service generally will agree not to conduct an examination at a taxpayer's place of business if the business is so small that doing so would essentially require the taxpayer to close the business or would unduly disrupt business operations. If an examination is scheduled by the Service at the taxpayer's place of business and the taxpayer represents to the Service in writing that conducting the examination at the place of business would essentially require the business to close, the Service, upon verification, shall change the place of examination to a Service office within the Internal Revenue Service district where the taxpayer's books, records, and source documents are maintained.

(iii) *Site visitations.* Regardless of where an examination takes place, the Service may visit the taxpayer's place of business or residence to establish facts that can only be established by direct visit, such as inventory or asset verification. The Service may visit for these purposes on a normal workday of the Service during the Service's normal business hours.

(e) *Requests by taxpayers to change place of examination.*—(1) *In general.* The Service will consider, on a case-by-case basis, written requests by taxpayers or their representatives to change the place that the Service has set for an examination. In considering these requests, the Service will take into account the following factors:

(i) The location of the taxpayer's current residence;

(ii) The location of the taxpayer's current principal place of business;

(iii) The location at which the taxpayer's books, records, and source documents are maintained;

(iv) The location at which the Service can perform the examination most efficiently;

(v) The resources available at the Service office to which the taxpayer has requested a transfer; and

(vi) Other factors which indicate that conducting the examination at a particular location could pose undue inconvenience to the taxpayer.

(2) *Circumstances in which the Service normally will permit transfers.* A request by a taxpayer to transfer the place of examination will generally be granted under the following circumstances:

(i) *Office examination*—(A) If a taxpayer currently resides in a district other than the district initially selected for the examination, the Service normally will agree to transfer the examination to that Service office, in the district encompassing the taxpayer's current residence, which is closest to the taxpayer's residence.

(B) If a taxpayer's current residence is closer to a different Service office in the same district than the office initially selected for the examination, the Service normally will agree to transfer the examination to the Service office closest to the taxpayer's current residence.

(ii) *Field examinations*—(A) If a taxpayer does not reside at the residence where an examination has been scheduled, the Service will transfer the examination to the taxpayer's current residence.

(B) If a taxpayer's books, records and source documents are maintained at a place other than the place at which the examination is scheduled to take place, the Service will agree to transfer the examination to the place where the taxpayer's books, records and source documents are maintained.

(3) *Transfer for convenience of taxpayer's representative.* The location of the place of business of a taxpayer's representative will generally not be considered in determining the place for an examination.

(4) *Transfer within thirteen months of expiration of limitations period.* If any applicable period of limitations on assessment or collection provided in the Internal Revenue Code will expire within thirteen months from the date of a taxpayer's request to transfer the place of an examination, the Service may require, as a condition for an otherwise permissible transfer, that the

taxpayer first agree in writing to extend the limitations period.

(5) *Transfer to office with insufficient resources.* The Service will not be required to transfer an examination to an office or district that does not have adequate resources to conduct the examination.

(f) *Safety of Service officers and employees.* Notwithstanding any other provision of this regulation, officers and employees of the Service may decline to conduct an examination at a particular location if it appears that the possibility of physical danger may exist at that location. In these circumstances, the Service may transfer an examination to a Service office and take any other steps reasonably necessary to protect its officers and employees.

(g) *Transfers initiated by Service.* Nothing in these regulations shall be interpreted as precluding the Service from initiating the transfer of an examination if the transfer would promote the effective and efficient conduct of the examination. Should a taxpayer request that such a transfer not be made, the Service will consider the request according to the principles and criteria set forth in paragraph (e) of this section.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved: March 27, 1990.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90-7619 Filed 4-2-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD COTP Baltimore, MD Regulation 90-01]

Ice Navigation Season; Regulated Navigation Area Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of termination of ice navigation season under 33 CFR 165.503.

SUMMARY: The Ice Navigation Season Regulated Navigation Area on the northern portion of Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal, is terminated effective 31 March 1990. The regulation for this Regulated Navigation Area, found in 33 CFR 165.503, states that the Regulated Navigation Area is placed in effect and terminated at the direction of the Captain of the Port, Baltimore, Maryland by notice in **Federal Register**. The Regulated Navigation Area was placed in effect by a **Federal Register** Notice published on December 26, 1989 (54 FR 52938). The purpose of this Regulated Navigation Area was to enhance the safety of navigation in the affected waters. It required operators of certain vessels to be aware, during their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland. The Regulated Navigation Area is hereby terminated.

EFFECTIVE TERMINATION DATE: March 31, 1990.

FOR FURTHER INFORMATION CONTACT: LTJG C.C. Pippenger, Port Safety Officer, Coast Guard Marine Safety Office, Custom House, Baltimore, Maryland 21202-4022, (301) 962-5105.

Dated March 28, 1990.

J.H. Parent,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 90-7550 Filed 4-2-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AD54

Determination of Service Connection for Impaired Hearing

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations to establish criteria for the purpose of determining the levels at which hearing loss becomes disabling. This change is necessary to provide regulatory limits governing the establishment of service connection for impaired hearing. The intended effect will be to establish a department-wide rule for making determinations regarding service connection for impaired hearing.

EFFECTIVE DATE: This amendment is effective May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Joel Drembus, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: On pages 32627-32628 of the **Federal Register** of August 26, 1988, VA published a proposal to amend its adjudication regulations by adding § 3.385. Interested persons were invited to submit comments, suggestions, or objections by September 26, 1988. Five comments were received.

Three commenters suggested that hearing status upon entering military service should be considered and compared to hearing status upon discharge or release from service. Two of the three further stated that any change or shift in hearing in service should be considered service-connected or related.

When making a determination as to whether or not service connection is warranted for any disease or injury, VA always considers the service medical records, including the findings shown on entrance and discharge or release, as well as all other evidence of record. Service connection basically means that the evidence establishes that a disease or injury resulting in disability was incurred coincident with military service, or if preexisting such service, was aggravated therein. The purpose of this regulation is to provide a gauge of what constitutes hearing disability. A change in hearing as a result of military service is a disability only if it exceeds the specified levels constituting hearing disability. We, therefore, do not agree that any change in hearing in service should be service-connected.

One commenter stated that our proposed regulation was too lenient. We do not agree. The pure tone thresholds are not significantly changed from the procedural guidelines for determining normal hearing which VA rating boards have used for many years. The significant change between the procedural guidelines and the proposed regulation is in dropping consideration of pure tone thresholds at 250 Hertz (Hz) and considering such thresholds at 3000 Hz.

Two commenters recommended that the speech recognition test words be presented at normal conversation level and that this presentation level be factored into the speech recognition scores.

We do not concur. VA establishes service connection for "uncorrected" hearing loss based on unaided audiological test results. Since "normal" speech recognition scores are obtained at 30-40 decibels (dB) Sensation Level for "normal hearing" listeners, presentation at average conversational level or 70 dB Sound Pressure Level would result in decreased speech recognition ability for even mildly impaired veterans. Service connection must be established on the basis of