

relative amount of the fraudulent billing compared to the total billings. Claims that have been CHAMPUS cost-shared that are retroactively audited or reviewed and are found to include fraudulent billings may be denied in part or in total based on the discretion of the Director, OCHAMPUS, or a designee.

5. Section 199.10 is amended by revising paragraph (a)(2)(ii) introductory text to read as follows:

§ 199.10 Appeal and hearing procedures.

(a) * * *

(2) * * *

(ii) *Representative.* Any party to the initial determination may appoint a representative to act on behalf of the party in connection with an appeal. Generally, the parent of a minor beneficiary and the legally appointed guardian of an incompetent beneficiary shall be presumed to have been appointed representative without specific designation by the beneficiary. The custodial parent or legal guardian (appointed by a cognizant court) of a minor beneficiary may initiate an appeal based on the above presumption. However, should a minor beneficiary turn 18 years of age during the course of an appeal, then any further requests to appeal on behalf of the beneficiary must be from the beneficiary or pursuant to the written authorization of the beneficiary appointing a representative. For example, if the beneficiary is 17 years of age and the sponsor (who is a custodial parent) requests a formal review, absent written objection by the minor beneficiary, the sponsor is presumed to be acting on behalf of the minor beneficiary. Following the issuance of the formal review, the sponsor requests a hearing; however if, at the time of the request for a hearing, the beneficiary is 18 years of age or older, the request must either be by the beneficiary or the beneficiary must appoint a representative. The sponsor, in this example, could not pursue the request for hearing without being appointed by the beneficiary as the beneficiary's representative.

Dated: November 19, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-28179 Filed 11-25-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD-90-064c]

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: The Coast Guard has been petitioned by the Federal Highway Administration, the Maryland and Virginia Departments of Transportation, and the District of Columbia Department of Public Works to permanently amend the regulations governing operation of the Woodrow Wilson Memorial Bridge across the Potomac River, mile 103.8, at Alexandria, Virginia. As part of the rulemaking process, the Coast Guard is considering several alternative opening schedules as well as the schedule proposed by the petitioners. This temporary rule is being issued to evaluate the impacts of a variation of one of the other alternatives previously evaluated under an earlier temporary rule for its impact on both marine and highway traffic.

DATES: This temporary rule is effective from November 28, 1991, through January 27, 1992, unless sooner terminated. Comments must be received on or before January 13, 1992.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be available for inspection and copying at room 507 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and CAPT M. K. Cain, Project Attorney.

Discussion of Temporary Rule

This temporary rule is being issued to evaluate a variation of one of the alternative opening schedules that was previously evaluated by the Coast Guard in response to a request from the Federal Highway Administration, the Virginia and Maryland Departments of Transportation, and the District of

Columbia Department of Public Works, to permanently change the regulations for the Woodrow Wilson Memorial Bridge by further restricting the hours during which the bridge may open for vessel traffic. This variation makes a distinction between deep-draft commercial vessels and other commercial vessels. It slightly extends the hours in the early morning and evening during which deep-draft vessels may request an opening of the drawbridge. This change is being considered because commercial shipping interests and the Virginia Pilots Association have stated deep-draft vessels require more leeway for requesting openings than other vessels because they must plan their transits of the river to coincide with high tide stages. Due to shoaling in portions of the river, these vessels require high tide to safely transit these portions of the river. Deep draft vessels are those with a draft of over 20 feet.

This temporary rule is for evaluation purposes only and will be effective for a 60 day period beginning on November 28, 1991. The impact of this proposal on highway and marine traffic during this period will be evaluated to determine if it will result in substantial improvements in vehicular traffic flow without unreasonably restricting marine traffic. Data will be collected during the period to document the time and duration of draw openings and length of any resulting vehicle backups. If this rule results in an unforeseen disruption of traffic it may be withdrawn sooner than 60 days.

The Woodrow Wilson Bridge operated under temporary rules from August 2, 1990, through May 31, 1991, to facilitate repairs to the bridge. Repairs were completed by May 31, 1991. Normally, operation of the bridge would revert to the permanent rule in 33 CFR 117.255. However, it is apparent that these will not provide a satisfactory balance between the needs of today's vehicular traffic and the needs of vessels. Therefore, the Coast Guard issued a temporary deviation from the permanent rules under the provisions of 33 CFR 117.43. That temporary rule with request for comments was issued to evaluate one of the alternative opening schedules being considered for a permanent change in the regulations. The rule was published in the *Federal Register* (56 FR 25369) on June 4, 1991. It was effective from June 1, 1991, through July 30, 1991. Comments were accepted through July 15, 1991. On July 9, 1991, the Coast Guard issued a second temporary rule with request for comments under the provisions of 33 CFR 117.43 to

evaluate another of the alternative opening schedules being considered for a permanent change in regulations. That rule was published in the *Federal Register* (56 FR 35816) on July 29, 1991. It was effective from July 31, 1991, through September 28, 1991. Comments were accepted through September 13, 1991. On September 23, 1991, the Coast Guard issued a third temporary rule with request for comments under the provisions of 33 CFR 117.43 to evaluate another alternative opening schedule being considered. That rule was published in the *Federal Register* (56 FR 49145) on September 27, 1991. It was effective from September 29, 1991, through November 27, 1991. Comments were accepted through November 12, 1991.

Before any permanent changes are made in the operating rule for the Woodrow Wilson Bridge, a notice of proposed rulemaking will be published and comments on all alternatives under consideration will be solicited.

Comments are also invited concerning any particular problems experienced with this temporary schedule. These comments will be evaluated and modifications may be made or an alternate temporary schedule of openings may be established for the purpose of further evaluation. All comments received will also be considered along with those received in connection with the permanent operating schedule rule change being considered. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary rules. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

This temporary rule serves the immediate interests of highway traffic with no expected significant adverse impacts on marine traffic. It is a variation of one of the alternative opening schedules previously evaluated and is the fourth in a series of temporary rules being evaluated to gather information for drafting a new permanent rule. For these reasons, pursuant to 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for publishing this temporary rule without publication of a notice of proposed rulemaking. Further, because the Coast Guard agrees that it is not acceptable to revert to the existing permanent rule on the expiration of the current temporary deviation on November 27, 1991, it finds, pursuant to 5 U.S.C. 553(d), that good cause exists for making this rule

effective in less than 30 days after the date of publication in the *Federal Register*.

Regulatory Evaluation

This temporary rule is considered to be non major under Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that these regulations are temporary and may be withdrawn earlier than scheduled. They are not expected to have any substantial effect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard will accept comments on the economic impact on small entities, in connection with the proposal for permanent regulations, and consider them at that time.

Federalism

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

Environment

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.g.(5) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); 33 CFR 117.42.

2. Section 117.255 is temporarily amended by revising paragraph (a)(2) to read as follows: (This is a temporary rule and will not appear in the Code of Federal Regulations).

§ 117.255 Potomac River.

(a) * * *

(2) Need not open:

(i) Except as provided in paragraph (a)(1) of this section, for the passage of any vessel unless at least 2 hours advance notice is given to the bridgetender at (202) 727-5522.

(ii) For the passage of any vessel from 5 a.m. to 9 a.m. and from 2 p.m. to 6 p.m., on Mondays through Fridays other than Federal holidays.

(iii) For the passage of any vessel from 2 p.m. to 7 p.m. on Saturdays, Sundays, and Federal holidays.

(iv) For the passage of any vessel other than a commercial vessel with a draft of over 20 feet from 4 a.m. to 5 a.m., from 9 a.m. to 10 a.m., and from 6 p.m. to 8 p.m., on Mondays through Fridays other than Federal holidays.

(v) For the passage of recreational vessels from 4 a.m. to 12 midnight with the exception of one opening at 12 noon, if requested, on Mondays through Fridays other than Federal holidays.

(vi) For the passage of recreational vessels from 6 a.m. to 12 midnight with the exception of one opening at 12 noon, if requested, and one opening at 9 p.m., if requested, on Saturdays, Sundays, and Federal holidays.

(vii) This temporary rule is effective from November 28, 1991, through January 27, 1992.

* * * * *

Dated: November 20, 1991.

W.T. Leland,

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

[FR Doc. 91-28480 Filed 11-22-91; 2:37 pm]

BILLING CODE 4910-14-M

PANAMA CANAL COMMISSION

35 CFR Part 60

RIN 3207-AA 29

Classified Information

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: This final rule amends 35 CFR part 60 to reflect the procedures incorporated into the Panama Canal Commission's information security program subsequent to the appointment of a non-U.S. citizen as Administrator and a U.S. citizen as Deputy Administrator. The purpose of this revision is to identify the officials currently responsible for complying with the provisions of Executive Order 12356 regarding the identification, classification, declassification, safeguarding and destruction of security information affecting the national defense and foreign relations of the United States.

EFFECTIVE DATE: November 26, 1991.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara Fuller, Assistant to the Secretary for Commission Affairs, Panama Canal Commission, Telephone: 202-634-6441 or Mrs. Carolyn H. Twohy, Chief, Administrative Services Division, Agency Records Officer, Telephone in Balboa Heights, Republic of Panama: 011-507-52-7757.

SUPPLEMENTARY INFORMATION: The Panama Canal Commission is revising its regulations dealing with procedures for safeguarding and handling of classified information to reflect changes created by the appointment of a non-U.S. citizen as the Administrator and a U.S. citizen as the Deputy Administrator of the Commission. As a result of these appointments, the Deputy Administrator has assumed those responsibilities previously allocated to the Administrator, while the Director, Office of Executive Administration retains his authority as the senior official directing and administering the information security program. Also, as a result of the appointment of a non-U.S. citizen as Personnel Director, the Deputy Personnel Director has been designated the official responsible for directing the conduct of investigations of individuals for the issuance of security clearances in accordance with the standards and criteria of E.O. 10450.

This is not a major rule for the purposes of Executive Order 12291 and it will not have a significant impact on a number of small business entities under the Regulatory Flexibility Act. This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq. The publication of this notice is made in accordance with the Administrative Procedure Act 5 U.S.C. 551 et seq.

List of Subjects in 35 CFR Part 60

Classified Information, Security Information, Panama Canal.

For the reasons set forth in the preamble, the Panama Canal Commission amends 35 CFR Part 60 to read as follows:

PART 60—CLASSIFIED INFORMATION

1. The authority citation for part 60 continues to read as follows:

Authority: E.O. 12356, 47 FR 14874; 32 CFR part 2001 (Directive No. 1, Information Security Oversight Office), 47 FR 27836; E.O. 10450, 18 FR 2489; 22 U.S.C. 3611.

2. Section 60.1(b) is amended by revising paragraph (b)(8) and adding paragraphs (b)(9) and (b)(10) to read as follows:

§ 60.1 Authority, scope, and definitions.

* * * * *

(b) * * *

(8) *Deputy Administrator* means the U.S. citizen incumbent of that position or the U.S. citizen temporarily designated to assume the responsibilities set forth under this part. In the event that the regular incumbent is not serving in the position, a senior U.S. citizen official of the Commission listed in § 60.4(a) will designate an eligible U.S. citizen to assume the duties and responsibilities of the position as set forth in this part.

(9) *Director, Office of Executive Administration*, "Deputy Director, Office of Executive Administration," "Deputy Personnel Director," and "Chief, Administrative Services," are similarly defined to mean the U.S. citizen(s) temporarily designated to assume the responsibilities of the position as set forth in this part.

(10) *DUSD(P)* refers to the Deputy Under Secretary of Defense (Policy).

3. Section 60.2 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 60.2 Compliance with Executive Order 12356 and implementing directives.

* * * * *

(b) * * *

(1) Require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and

* * * * *

(c) The Deputy Personnel Director will direct the conduct of investigations relative to the issuance of security clearances in accordance with the standards and criteria of Executive Order 10450.

4. Section 60.3(f)(3)(ii) is revised to read as follows:

§ 60.3 Classification levels, categories, and limitations.

* * * * *

(f) * * *

(3) * * *

(ii) The information may reasonably be recovered. These reclassification actions shall be reported promptly to the Office of the Deputy Under Secretary of Defense (Policy) for subsequent reporting to the Director of the Information Security Oversight Office.

* * * * *

5. Section 60.4(a)(1) and (2) are revised and paragraph (a)(3) is added to read as follows:

§ 60.4 Limitations on original classification authority.

(a) * * *

- (1) The Deputy Administrator;
- (2) The Director, Office of Executive Administration; and
- (3) The Secretary, Washington Office.

* * * * *

6. In § 60.6 the introductory text of paragraph (d) is revised to read as follows:

§ 60.6 Requirements for classification guides.

* * * * *

(d) The Deputy Administrator may, for good cause, grant and revoke waivers of the requirement to prepare classification guides for specified classes of documents or information. A decision to waive the requirement should be based, at minimum, on an evaluation of the following factors:

* * * * *

7. In § 60.8 paragraph (b) and the introductory text of paragraph (m) are revised to read as follows:

§ 60.8 Identification and markings.

* * * * *

(b) Each classified document shall by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are not classified. The Deputy Administrator may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

* * * * *

(m) National security information that is transmitted electronically shall be marked as follows:

* * * * *

8. In § 60.9 paragraph (f) is revised to read as follows:

§ 60.9 Declassification and downgrading.

* * * * *

(f) Classified information accessioned into the National Archives of the United States from the Commission shall be

declassified or downgraded by the Archivist of the United States in accordance with Executive Order 12356, the directives of the Information Security Oversight Office, and guidelines established by the Director, Office of Executive Administration of the Panama Canal Commission. Such guidelines shall be reviewed and updated, if necessary, at least every five years, unless earlier review is requested by the Archivist.

9. In § 60.10 paragraphs (a), (d)(4) (i) and (e) are revised to read as follows:

§ 60.10 Access to classified information.

(a) A person is eligible for access to classified information provided that a determination of trustworthiness has been made and that such access is essential to the accomplishment of lawful and authorized Government purposes. The determinations of eligibility and trustworthiness, referred to in this part as a security clearance, shall be based on such investigations as the Panama Canal Commission may require. The Deputy Personnel Director shall be responsible for conducting investigations relative to the issuance of security clearances in accordance with the standards and criteria of Executive Order 10450, and will maintain a list showing the level of security clearances granted to each person. Security clearances will be granted by the Director, Office of Executive Administration, as provided in § 60.14 of this part.

(d) * * *

(4) * * *

(i) Written agreements from the requesters to safeguard the information to which they are given access, as permitted by Executive Order 12356 and this part; and

(e) If the access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to 31 U.S.C. 9701, the requesters shall be so notified and the fees may be imposed.

10. In § 60.11 paragraphs (c) and (d) are revised to read as follows:

§ 60.11 Top Secret, Secret, and Confidential Control Officer.

(c) The Director, Office of Executive Administration shall act on all suggestions and complaints received by the Commission with respect to the administration of Executive Order 12356

and this part, and may also recommend to the Deputy Administrator appropriate administrative actions or sanctions to correct abuse or violation of any provision of that Order or directives under it. The Director of the Information Security Oversight Office shall be promptly informed by the agency when such violations occur.

(d) To the extent required by applicable laws and agency regulations, the Deputy Administrator shall report to the Attorney General evidence reflected in classified information of possible violations of Federal criminal law by an agency employee and of possible violations by any other person of those Federal criminal laws specified in guidelines adopted by the Attorney General.

11. In § 60.12 paragraphs (a), (d)(3), and (e) are revised to read as follows:

§ 60.12 Mandatory review for declassification.

(a) Any United States citizen, permanent resident alien, federal agency, or the government of a U.S. state or municipality may request that classified information be reviewed for declassification by the originating agency and released. Such requests must be submitted in writing to the Chief, Administrative Services Division, Panama Canal Commission, Unit 2300, APO AA 34011 (or Panama Canal Commission, Balboa Heights, Republic of Panama). In accordance with section 9701 of title 31, United States Code, fees may be applied to any requests for declassification and release. A request need not identify the information requested by date or title, but must describe the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort. Whenever a request is deficient in its description of the information sought, the Chief, Administrative Services Division shall notify the requester that, unless additional identifying information is provided or the scope of the request is narrowed, the Commission will take no further action on the request.

(d) * * *

(3) Upon the denial or a partial denial of a request, the Chief, Administrative Services Division shall reply to the requester and provide a brief statement of the reasons for the denial, a notice of the right to appeal the decision to the Director, Office of Executive Administration and a notice that the appeal must be in writing and must be

received by the Commission within sixty (60) days of receipt of the decision letter by the requester. Appeals should be addressed to: Director, Office of Executive Administration, Panama Canal Commission, Unit 2300, APO AA 34011 (or Panama Canal Commission, Balboa Heights, Republic of Panama).

(e) Within thirty (30) days after its receipt of a proper appeal against an initial decision not to declassify information, the Director, Office of Executive Administration shall make and dispatch the decision whether the information should be declassified. If the Director, Office of Executive Administration is the original classification authority of the information under appeal, the Deputy Administrator shall determine whether the information may be declassified. The Director, Office of Executive Administration shall, after the decision, promptly make available to the requester any information that is declassified and which is otherwise releasable. If continued classification of the requested information is necessary, the requester shall be notified of that decision and the reasons therefor. If requested, the appeal determination shall also be communicated to any referring agency.

12. In § 60.13 paragraphs (b), (d), and (e)(1) are revised to read as follows:

§ 60.13 Custody and storage.

(b) Each bureau director and chief of an independent unit (or classified security control officer as designated by the Director, Office of Executive Administration) shall be responsible for assuring that all classified information within that official's organization is used, processed, stored, and transmitted only under conditions which will provide adequate protection and prevent access by, or dissemination to, unauthorized persons. Containers, vaults, alarm systems, and associated security devices procured after the effective date of this part for the storage and protection of classified information shall be in conformance with the standards and specifications published by the General Services Administration and, to the maximum extent practicable, be of the type designated on its Federal Supply Schedule.

(d) Each bureau director and chief of an independent unit (or classified security control officer) is responsible

for assuring that all personnel within that official's organization, having access to classified information, have a security clearance issued by the Director, Office of Executive Administration, see § 60.14 and § 60.16.

(e)(1) Combinations of all repositories containing classified information shall be changed at least annually and forwarded in double-sealed envelopes to the Office of Executive Administration. The double-sealed envelopes shall be classified no lower than the highest category of information contained in the repositories. Combinations to dial-type locks shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination no longer requires access to the combination, whenever the equipment is taken out of service, and at least once every year. Knowledge of combinations protecting classified information shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information to be stored in the security equipment concerned. Bureau directors and heads of independent units (or classified security control officers) shall ensure that combinations of dial-type locks shall be changed whenever there is reason to suspect possible compromise of the current combination.

13. Section 60.14(a) is revised to read as follows:

§ 60.14 Security investigations; training and orientation of employees.

(a) Requests for security clearances, including changes in the level of clearances, will be forwarded to the Office of Personnel Administration for background investigations and security checks. The Deputy Personnel Director shall ensure that all necessary investigations are completed, and will provide a recommendation on the issuance of a security clearance to the Office of Executive Administration. The Director, Office of Executive Administration, in consideration of all available information, will determine if a security clearance may be issued, or if the level may be changed, and establish the expiration date of the clearance.

14. Section 60.15 is revised to read as follows:

§ 60.15 Debriefing upon termination of employment.

(a) Bureau directors and heads of independent units (or classified security

control officers as designated by the Director, Office of Executive Administration) shall be responsible for notifying the Office of Executive Administration whenever it is necessary that an employee be briefed or debriefed. Such notification should be in writing and be at least sixty (60) days, or as long as possible, in advance.

(b) Bureau directors and heads of independent units (or classified security control officers) shall ensure that debriefings are accomplished for any employee whose employment is terminated, or scheduled to be terminated, or when a temporary separation from employment (not to include leave) for sixty (60) days or more has occurred or is scheduled, whenever the employee has had access to classified information within the last twelve calendar months of his employment.

15. Section 60.17(b) and (c) are revised and paragraph (d) is added to read as follows:

§ 60.17 Loss or compromise; destruction of nonrecord classified information.

* * * * *

(b) The Deputy Administrator or the Director, Office of Executive Administration shall initiate a damage assessment whenever there has been a compromise of classified information originated by the Commission that, in his judgment, can reasonably be expected to cause damage to the national security. Damage assessments shall be in writing and shall conform to the guidelines established by the Information Security Oversight Office, as provided in 32 CFR 2001.47(b).

(c) Nonrecord classified information that has served its intended purpose shall be destroyed in accordance with procedures and methods approved by the Deputy Administrator or the Director, Office of Executive Administration. The method of destruction selected must preclude recognition or reconstruction of the classified information or material.

(d) The Office of Executive Administration is the only office within the Commission authorized to destroy classified documents which have been recorded as received and assigned a control number.

Dated: October 18, 1991.

Gilberto Guardia F.,

Administrator.

[FR Doc. 91-28389 Filed 11-25-91; 8:45 am]

BILLING CODE 3840-04-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201, 202, 203, 204, and 211

[Docket No. 91-4]

Copyright Office; Fees

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: The Copyright Office is making housekeeping amendments correcting the fees appearing in its regulations so that they correspond to the fee schedule enacted into law by the "Copyright Fees and Technical Amendments Act of 1989," Public Law 101-318, 104 Stat. 287, July 3, 1990.

EFFECTIVE DATE: November 26, 1991.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone number (202) 707-8380.

SUPPLEMENTARY INFORMATION: The "Copyright Fees and Technical Amendments Act of 1989" increased the fees for all statutory fee services offered by the Copyright Office. In addition to increasing the fees, the Act also changed the manner in which the fees will be calculated in the case of recordation of transfers and other documents as provided by section 205, and for the issuance of certifications other than additional certificates of registration.

For the recordation, provided by section 205, of a transfer of copyright ownership or other document, the old fee was \$10 for a document of six pages or less containing only one title. An additional 50 cents was charged for each page over six and for each title over one. Under the new schedule, the fee is \$20 for a document covering one title regardless of the number of pages plus \$10 for each group of not more than 10 additional titles.

For the issuance of certifications, other than an additional certificate of registration, the old fee was a flat \$4.00. Under the new fee schedule, the fee will be \$20 for each hour or fraction of an hour consumed with respect thereto.

We are making the technical adjustments necessary to references in the regulations to recordation of documents and to searches of the public record, in order to make the regulations consistent with the new statutory fee schedule. The following parts of the regulations are adjusted: Part 201 with respect to recordation of documents in

general, notices of termination, agreements between copyright owners and public broadcasting entities, and contracts by cable systems located outside the 48 contiguous states; part 201 regarding notices of intention and royalty accounting statements pursuant to 17 U.S.C. 115; part 202 with respect to the general fee for recordation of a document and the fee for renewal registration; part 203 with respect to the fee for preparing copies of records under the Freedom of Information Act; and part 211 with respect to the fees for services associated with registration and recordation of mask work and mask work documents, respectively.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress, which is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, of U.S. Code, subchapter II and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.¹

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that these regulations will have no significant impact on small business.

List of Subjects

37 CFR Part 201

Cable; Copyright; Fees.

37 CFR Part 202

Copyright; Fees; Registration.

37 CFR Part 203

Freedom of Information Act.

37 CFR Part 204

Privacy Act.

¹The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title (17), except with respect to the making of copies of copyright deposits) (17 U.S.C. 706(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

37 CFR Part 211

Computer technology.

Final Regulations

In consideration of the foregoing, parts 201, 202, 203, 204, and 211 of 37 CFR chapter II are amended in the manner set forth below.

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: Sec. 702, 90 Stat. 2541, 17 U.S.C. 702; § 201.7 is also issued under 17 U.S.C. 408, 409, and 410; § 201.16 is also issued under 17 U.S.C. 116.

2. Section 201.4 is amended by revising paragraph (d) to read as follows:

§ 201.4 Recordation of transfers and certain other documents.

(d) *Fees.* For a document covering not more than one title, the basic recordation fee is \$20. For additional titles, a charge of \$10 is added for each group of not more than 10 titles.

§ 201.5 [Amended]

3. In § 201.5, paragraph (c)(1) introductory text and footnote 2 remove the fee of "\$10," and add in its place "\$20."

4. Section 201.9 is amended by revising paragraph (b) to read as follows:

§ 201.9 Recordation of agreements between copyright owners and public broadcasting entities.

(b) For a document covering not more than one title the basic recordation fee is \$20. For additional titles, a charge of \$10 is added for each group of not more than 10 titles.

5. Section 201.10 is amended by revising paragraph (f)(2) to read as follows:

§ 201.10 Notices of termination of transfers and licenses covering extended renewal term.

(f) *Recordation.* * * *

(2) For a document covering not more than one title the basic recordation fee is \$20. For additional titles, a charge of \$10 is made for each group of not more than 10 titles.

6. Section 201.12 is amended by revising paragraph (b) to read as follows:

§ 201.12 Recordation of certain contracts by cable systems located outside of the forty-eight contiguous states.

(b) For a document covering not more than one title the basic recordation fee is \$20. For additional titles, a charge of \$10 is added for each group of not more than 10 titles.

§ 201.18 [Amended]

7. In § 201.18, paragraph (e)(1) remove the fee of "\$6.00" and add in its place "\$12." In paragraphs (e)(1) and (e)(3) remove the fee of "\$4.00" and add in its place "\$8."

§ 201.19 [Amended]

8. In § 201.19, paragraphs (e)(7)(ii)(D) and (f)(7)(iii)(D) remove the fee of "\$4.00" and "\$4" respectively and add in each place "\$8."

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: Sec. 702, 90 Stat. 2541, 17 U.S.C. 702; §§ 202.19, 202.20, and 202.21 are also issued under 17 U.S.C. 407 and 408.

§ 202.3 [Amended]

2. In § 202.3 paragraphs (b)(4)(ii)(B), (b)(5)(ii)(C), and (C)(2) remove the fee of "\$10," and add in its place "\$20."

§ 202.17 [Amended]

3. In § 202.17, paragraph (e)(2)(ii) remove the fee of "\$6," and add in its place "\$12."

§ 202.19 [Amended]

4. In § 202.19, paragraph (f)(3) remove the fee of "\$2," and add in its place "\$4."

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

1. The authority citation for part 203 continues to read as follows:

Authority: Copyright Act, Pub. L. 94-553; 90 Stat. 2541-2602 (17 U.S.C. 101-710).

§ 203.6 [Amended]

2. In § 203.6, paragraph (b)(1) remove the fee of "\$4," and add in its place "\$8"; in paragraph (b)(2) remove the ".45 per page" and add in its place, "a minimum fee of \$7 for up to 15 pages and \$.45 per page over 15." In paragraph (b)(3) remove the fee of "\$10" and add in its place "\$20"; paragraph (b)(4) is revised to read: "For the issuance of any certification, \$20 for each hour or fraction of an hour consumed in respect thereto."

PART 204—PRIVACY ACT: POLICIES AND PROCEDURES

1. The authority citation for part 204 continues to read as follows:

Authority: Copyright Act, Pub. L. 94-553; 90 Stat. 2541-2602 (17 U.S.C. 101-710).

§ 204.6 [Amended]

2. In § 204.6, paragraph (a), remove the language "computed at the rate of \$.45 per page for 24 pages or less, and \$.40 per page for 25 pages or more with a minimum fee of \$6.00" and add in its place "a minimum of \$7 for up to 15 pages and \$.45 per page over 15."

PART 211—MASK WORK PROTECTION

1. The authority citation for part 211 continues to read as follows:

Authority: 17 U.S.C. 701; 908.

2. In § 211.3, paragraph (a) is revised to read as follows:

§ 211.3 Mask work fees.

(a) The following fees or charges are established by the Register of Copyrights for services relating to mask works:

(1) For filing an application for registration of a mask work claim....\$20.00

(2) For the recordation of a document covering not more than one title, the basic recordation fee is \$20. For additional titles over one, a charge of \$10 is added for each group of not more than 10 titles;

(3) For a certified copy of a certificate of registration, \$8;

(4) For certifications of photocopies of other Copyright Office records, \$20 for each hour or fraction of an hour consumed with respect thereto;

(5) For issuance of a receipt of deposit, \$4;

(6) For each hour or fraction of an hour consumed in making and reporting a routine search, or for any related services, \$20;

(7) For special handling of an application for registration of a claim, \$200;

(8) For any special services not listed above requiring a substantial amount of time or expense, the fees will be fixed on the basis of the cost of providing the service.

Dated: November 12, 1991.

Ralph Oman,

Register of Copyrights.

Approved by:

James Billington,

The Librarian of Congress.

[FR Doc. 91-27979 Filed 11-25-91; 8:45 am]

BILLING CODE 1410-07-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 60**

[FRL-4034-9]

Standards of Performance for New Stationary Sources; Delegation of Authority to Knox County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: On July 26, 1991, the Knox County Department of Air Pollution Control in the State of Tennessee, requested delegation of authority for implementation and enforcement of several standards in 40 CFR part 60, New Source Performance Standards (NSPS).

EFFECTIVE DATE: The effective date of delegation is November 1, 1991.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation may be examined during normal business hours at the Agency's Regional Office, 345 Courtland Street, NE., Atlanta, Georgia 30365. All reports required pursuant to the newly delegated standards (identified below) should be submitted to the Knox County Department of Air Pollution Control, City/County Building, suite 459, Main Avenue, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Leslie Cox of the EPA Region IV Air Programs Branch at the above address and telephone number (404) 347-2884 or (FTS) 257-2884.

SUPPLEMENTARY INFORMATION: Sections 111(c)(1) and 112(d)(1) of the Clean Air Act as amended, authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards (NSPS).

On July 26, 1991, the Knox County Department of Air Pollution Control requested delegation of several new and revised NSPS standards. The following standards were requested by Knox County:

40 CFR Part 60 Subpart

- Ca—Municipal Waste Combustors
- Dc—Small Industrial-Commercial-Institutional Steam Generating Units
- Ea—Municipal Waste Combustors
- DDD—Polypropylene, Polyethylene, Polystyrene and Poly (ethyleneterephthalate) Manufacturing Industries
- III—Volatile Organic Compound Emissions from the Synthetic, Organic, Chemical Manufacturing

Industries (SOCMI), Air Oxidation Unit Process

NNN—Volatile Organic Compound Emissions from the Synthetic, Organic, Chemical Manufacturing Industries (SOCMI), Distillation Operations

After a thorough review of the categories requested for delegation, the Regional Administrator determined that delegation of NSPS, subparts Ca, Dc, Ea, DDD, III, and NNN was appropriate with all the conditions set forth in the initial delegation letters of May 20, 1977; December 13, 1985; March 3, 1986; July 1, 1986; June 1, 1988; May 16, 1989; December 14, 1989; and October 29, 1990, and in EPA issued guidance, including a May 20, 1988, letter from EPA to state and local agencies.

EPA, thereby, delegated its authority for 40 CFR part 60, subpart Ca, Dc, (excluding § 60.48c(a)(4)), Ea, DDD (excluding § 60.562-2(c)), III (excluding § 60.613(e)), and NNN (excluding § 60.663(e)) on November 1, 1991.

I certify, pursuant to 5 U.S.C. 605(b), that this delegation will not have a significant impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirement of section 4 of Executive Order 12291.

Authority: Section 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: November 14, 1991.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 91-28385 Filed 11-25-91; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION**41 CFR Part 101-39**

[FPMR Amendment G-94]

Transportation and Motor Vehicles

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends 41 CFR part 101-39 to reflect changes to the General Services Administration's Interagency Fleet Management System (IFMS) that were primarily the result of Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1985, the IFMS vehicle consolidation effort, and the general restructuring of the IFMS to provide more economical vehicle services at the lowest cost to the Federal Government.

EFFECTIVE DATE: November 26, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Michael W. Moses, Sr., Fleet Management Division (703-557-1273).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximize the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-39

Interagency fleet management systems.

For the reasons set forth in the preamble, 41 CFR part 101-39 is amended as follows:

PART 101-39—INTERAGENCY FLEET MANAGEMENT SYSTEMS

1. The authority citation for part 101-39 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2-3. Section 101-39.000 is revised to read as follows:

§ 101-39.000 Scope of part.

This part prescribes policies governing the establishment and operation of interagency fleet management systems and operating procedures applicable to the General Services Administration (GSA) Interagency Fleet Management System.

4. Section 101-39.003 is amended by revising paragraph (b) to read as follows:

§ 101-39.003 Financing.

(b) When an agency other than GSA operates an interagency fleet management system, the financing and accounting methods shall be developed by GSA in cooperation with the agency concerned.

5. Section 101-39.004 is revised to read as follows:

§ 101-39.004 Optional operations.

Nothing in this part shall preclude the establishment or operation of interagency fleet management systems

by GSA or by other agencies which are to be operated on the basis of optional use by executive or other agencies under arrangements worked out between the agencies concerned and GSA.

Subpart 101-39.1—Establishment, Modification, and Discontinuance of Interagency Fleet Management Systems

6. Section 101-39.100 is amended by revising paragraphs (e) and (f) to read as follows:

§ 101-39.100 General.

(e) Except as provided in this subpart, all Government motor vehicles subsequently acquired for official purposes by fully participating agencies which are stored, garaged, or operated within the defined mandatory use service area of a fleet management system shall also be consolidated into and operated under the control of that system.

(f) Fleet management systems established under this subpart provide for furnishing motor vehicles and related services to executive agencies. So far as practicable, these services will also be furnished to any mixed-ownership corporation, the District of Columbia, or a contractor authorized under the provisions of Federal Acquisition Regulation, 48 CFR part 51, subpart 51.2, upon request. Such services may be furnished, as determined by the Administrator, GSA, through the use, under rental or other arrangements, of motor vehicles of private fleet operators, commercial companies, local or interstate common carriers, or Government-owned motor vehicles, or combinations thereof.

7. Section 101-39.101 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 101-39.101 Notice of intention to begin a study.

The Administrator, GSA, will ascertain the possibilities of economies to be derived through the establishment of a fleet management system in a specific geographical area. After preliminary investigation, he or she will notify the head of each agency concerned at least 30 calendar days in advance of the intent to conduct a study to develop data and justification as to the feasibility of establishing a fleet management system. The notification, in writing, will include:

(a) The approximate geographical area to be included in the study, including a defined mandatory use

service area and an optional use service area; and

8. Section 101-39.102 is amended by revising paragraph (a) to read as follows:

§ 101-39.102 Determinations.

(a) A description of the proposed operation (including Government-owned vehicles operated by contractors) covering the types of service and the geographic area (including the defined mandatory and optional use service areas) and executive agencies or parts of agencies to be served;

9. Section 101-39.102-1 is amended by revising paragraph (b) to read as follows:

§ 101-39.102-1 Records, facilities, personnel, and appropriations.

(b) The Administrator of General Services will furnish a copy of each determination, with a copy of the schedule of proposed transfer of motor vehicles, records, facilities, personnel, and appropriations, to the Director, OMB, and to each agency affected.

10. Section 101-39.104-1 is amended by revising the heading and paragraphs (a) and (b)(2) to read as follows:

§ 101-39.104-1 Consolidations into a fleet management system.

(a) All Government-owned motor vehicles acquired by executive agencies for official purposes which are operated, stored, or garaged within a defined mandatory use service area of an established fleet management system and other related equipment and supplies shall, when requested by the Administrator, GSA, in accordance with a determination, be transferred to the control and the responsibility of the fleet management system. Those vehicles specifically exempt by:

(1) Section 101-39.106 and § 101-39.107,

(2) In the determination establishing the fleet management system,

(3) A subsequent determination by the Administrator, GSA, or

(4) The decision of the Director, OMB, are not required to be transferred into the fleet management system. Facilities, personnel, records, and appropriations, as determined by the Director, OMB, pursuant to § 101-39.102-1, shall be included in the transfer.

(b) * * *

(2) Forward a signed copy to the Controller, Federal Supply Service, GSA;

11. Section 101-39.105 is revised to read as follows:

§ 101-39.105 Discontinuance or curtailment of service.

(a) If, during any reasonable period not exceeding 2 successive fiscal years, no economies or efficiencies are realized from the operation of any fleet management system, the Administrator, GSA, will discontinue the fleet management system concerned.

(b) The Administrator, GSA, may discontinue or curtail a fleet management system when he or she determines that sufficient economies or efficiencies have not resulted from the operation of that fleet management system. The Administrator, GSA, will give at least 60 calendar days notice of his or her intent to the heads of executive agencies affected and to the Director, OMB, before taking action.

12. Section 101-39.105-2 is amended by revising paragraph (a) to read as follows:

§ 101-39.105-2 Agency requests to withdraw participation.

(a) Executive agencies receiving motor vehicle services from fleet management systems may request discontinuance or curtailment of their participation after 1 year of participation, unless a different time period has been mutually agreed to, or if the need for these services ceases. Requests shall be submitted to the Administrator, GSA, with factual justification.

13. Section 101-39.106 is amended by revising the introductory text to read as follows:

§ 101-39.106 Unlimited exemptions.

Unlimited exemptions from inclusion in the fleet management system are granted to the specific organizational units or activities of executive agencies listed below. Unlimited exemptions do not preclude agencies from requesting fleet management services, if available, under optional use arrangements. Such optional use services must be authorized under the provisions of Executive Order 10579 and 40 U.S.C. 472.

14. Section 101-39.107 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101-39.107 Limited exemptions.

(a) Special-purpose motor vehicles. Motor vehicles acquired for special

purposes and which, because of special design, use, or fixed special equipment, cannot advantageously be included in a consolidated operation; or

(b) Motor vehicles operated outside the defined geographical area of the fleet management system. Motor vehicles which are operated almost entirely outside the defined mandatory use area of the fleet management system.

Subpart 101-39.2—GSA Interagency Fleet Management System Services

15. The heading for subpart 101-39.2 is revised as set forth above.

16. Sections 101-39.200, 101-39.201, 101-39.202, 101-39.203, and 101-39.204 are revised to read as follows:

§ 101-39.200 Scope.

This subpart defines the procedures for acquiring motor vehicles and related services provided by the General Services Administration (GSA) Interagency Fleet Management System (IFMS). Local transportation services for Government personnel and property may be provided by the GSA IFMS to efficiently meet the authorized requirements of participating agencies. These services may be furnished through commercial rental companies, private sector fleet operators, local or interstate common carriers, the Government, or a combination of the above.

§ 101-39.201 Services available.

GSA Interagency Fleet Management System (IFMS) vehicles and services shall be used in connection with official business and incidental use as prescribed by rule by the head of the agency in conformance with section 503 of the Ethics Reform Act of 1989 (Pub. L. 101-194) only. Available GSA IFMS services may include any or all of the following:

(a) Motor vehicles for indefinite assignment;

(b) Commercial motor vehicles for daily or short-term use, exclusive of temporary duty requirements;

(c) GSA IFMS dispatch vehicles for short-term use, where available. This service is generally limited to locations where there is no commercial alternative;

(d) Shuttle run or similar services;

(e) Driver services; and

(f) Other related services, including servicing, fueling, and storage of motor vehicles.

§ 101-39.202 Contractor authorized services.

(a) Authorized contractors and subcontractors shall use related GSA

Interagency Fleet Management System (IFMS) services solely for official purposes.

(b) To the extent available, authorized contractors and subcontractors may use GSA IFMS services on a reimbursable basis to provide maintenance, repair, storage, and service station services for Government-owned or -leased equipment which is not controlled by a GSA IFMS fleet management center, or for authorized contractor-owned or -leased equipment used exclusively in the performance of Government contracts.

(c) Contractor use of GSA IFMS services will be allowable only to the extent provided in Federal Acquisition Regulation, 48 CFR part 51, subpart 51.2.

(d) Use of GSA IFMS vehicles in the performance of a contract other than a cost-reimbursement contract requires preapproval by the Administrator of GSA. Such requests shall be submitted through the Director, Fleet Management Division, GSA, Attn: FBF, Washington, DC 20406.

§ 101-39.203 Obtaining motor vehicles for short-term use.

Any participating Federal agency, bureau, or activity may obtain vehicles for short-term local use through the GSA Interagency Fleet Management System (IFMS). Short-term use vehicles may be provided through Military Traffic Management Command (MTMC) agreements with commercial firms or, where available, through GSA IFMS dispatch services. This support is available for official use performed locally or within commuting distance of an employee's designated post of duty. Arrangements for these vehicles will be made by the GSA IFMS fleet management center serving the local area. The requesting agency official or employee must be authorized to place orders for vehicle support and provide a complete billing address and GSA billed office address code (BOAC) at the time an order is placed. Agencies requiring a BOAC may obtain one by contacting any General Services Administration IFMS fleet management center.

§ 101-39.204 Obtaining motor vehicles for indefinite assignment.

Motor vehicles and related services of the GSA Interagency Fleet Management System (IFMS) are provided to requesting agencies under the following procedures. When competing requests are received, priority will be given to a fully participating agency over an other than fully participating agency.

(a) Federal agencies or parts thereof that meet the following conditions are considered fully participating:

(1) All agency-owned motor vehicles have been consolidated into the supporting GSA IFMS fleet management center, and no agency-owned vehicles, with the exception of approved exemptions, are operated in the defined mandatory use service area of the supporting GSA fleet management center;

(2) No vehicles were available to consolidate, but total reliance is placed on the supporting GSA IFMS fleet management center or the GSA IFMS as a whole to meet all motor vehicle requirements, and no agency-owned vehicles are operated in the defined mandatory use service area of the supporting GSA fleet management center;

(3) The agency would otherwise qualify under paragraph (a) (1) or (2) of this section but has been authorized by GSA to purchase or commercially lease motor vehicles because the GSA IFMS was unable to supply its requirements.

(b) Fully participating agencies may request indefinite assignment of vehicles, regardless of number, from the supporting IFMS fleet management center. Assignment may be made at that level, subject to availability. If the required vehicles are not available, a written request shall be sent to the General Services Administration, Attn: FBF, Washington, DC, 20406. To be considered, the request shall include the following:

(1) Certification that concurrence has been obtained from the designated agency fleet manager or other designated headquarters-level official and that other means of transportation are not feasible or cost-effective;

(2) The number and types of vehicles required, of which passenger vehicles are limited to compact or smaller unless the agency head or designee has certified that larger vehicles are essential to the agency's mission;

(3) Location where the vehicles are needed;

(4) Date required, including earliest and latest acceptable dates;

(5) Anticipated length of assignment;

(6) Projected utilization, normally in terms of miles per month or year;

(7) Certification of funding;

(8) Billing address and billed office address code (BOAC);

(9) Agency contact, including name, address, and telephone number;

(10) Office, program, or activity requiring the vehicles;

(11) A statement that the agency does or does not request authority to commercially lease, and the anticipated

duration of the lease, should GSA be unable to provide the vehicles.

(c) Federal agencies that meet the following conditions are considered other than fully participating:

(1) Vehicles have been acquired from other sources for reasons other than the inability of the GSA IFMS to supply the required vehicles, except those designated as exempt vehicles as determined by the GSA IFMS;

(2) Cost reimbursable contractors authorized to utilize GSA IFMS motor vehicles when they represent participating agencies;

(3) Other authorized users of the GSA IFMS.

(d) Other than fully participating agencies must contact the supporting GSA IFMS fleet management center to ascertain vehicle availability, regardless of the number required. If the vehicles are available, assignment shall be made. When the supporting GSA IFMS fleet management center determines that the requested vehicles are not available, the requesting activity shall make a record of contact to document compliance with the mandatory first source of supply requirement. No further authorizations from GSA are required for the agency to execute a commercial lease from sources established by the GSA Automotive Commodity Center or the agency, provided that such agency has Congressional authority to lease motor vehicles and:

(1) All applicable procurement regulations (e.g., Federal Acquisition Regulation (FAR)) and internal agency acquisition regulations are observed;

(2) The requirements of part 101-38 of this chapter regarding fuel economy, Government identification and marking, etc., are adhered to;

(3) The agency fleet manager or designee retains responsibility for fleet oversight and reporting requirements under Public Law 99-272; and

(4) Other than fully participating agencies that choose not to commercially lease may utilize the procedures for full participants in paragraph (b) of this section, on the understanding that fully participating agencies will receive priority consideration.

§ 101-39.205 [Removed and Reserved]

17. Section 101-39.205 is removed and reserved.

18. Sections 101-39.206, 101-39.207, and 101-39.208 are revised to read as follows:

§ 101-39.206 Seasonal or unusual requirements.

Agencies or activities having seasonal, peak, or unusual requirements

for vehicles or related services shall inform the GSA IFMS fleet management center as far in advance as possible. Normally, notice shall be given not less than 3 months in advance of the need. Requests for vehicles for other than indefinite assignment will usually be filled for agencies participating fully with the GSA IFMS, provided resources permit. Other than fully participating agencies will normally not be accommodated for seasonal, peak, or unusual vehicle requirements.

§ 101-39.207 Reimbursement for services.

(a) GSA Regional Administrators will issue, as appropriate, regional bulletins announcing the GSA vehicle rental rates applicable to their respective regions.

(b) The using agency will be billed for GSA Interagency Fleet Management System (IFMS) services provided for under this part at rates fixed by GSA. Such rates are designed to recover all GSA IFMS fixed and variable costs. Rates will be reviewed and revised periodically to determine that reimbursement is sufficient to recover applicable costs. Failure by using agencies to reimburse GSA for vehicle services will be cause for GSA to terminate motor vehicle assignments.

(c) IFMS services provided to authorized Government contractors and subcontractors will be billed to the responsible agency unless such agency requests that the contractor be billed directly. In case of nonpayment by a contractor, GSA will bill the responsible agency which authorized the contractor's use of GSA IFMS services.

(d) Using agencies will be billed for accidents and incidents as described in § 101-39.406. Agencies may also be charged administrative fees when vehicles are not properly maintained, repaired, or when the vehicle is subject to abuse or neglect.

(e) Agencies may be charged for recovery of expenses for repairs or services to GSA IFMS vehicles which are not authorized by the GSA IFMS either through preventive maintenance notices, approval from a GSA Maintenance Control Center, or approval from a GSA fleet management center, per instructions in the operator's guide issued with each vehicle. Excess costs relating to the failure to utilize self-service gasoline pumps or the unnecessary use of premium grade gasoline may also be recovered from using agencies (see § 101-38.401-2 of this chapter).

§ 101-39.208 Vehicles removed from defined areas.

(a) Normally, vehicles shall not be permanently operated outside the geographical area served by the issuing GSA IFMS fleet management center. However, when agency programs necessitate vehicle relocation for a period exceeding 90 calendar days, the agency shall notify the issuing GSA IFMS fleet management center of the following:

- (1) The location at which the vehicles are currently in use;
- (2) The date the vehicles were moved to the present location; and
- (3) The expected date the vehicles will be returned to the original location.

(b) When vehicles will be permanently relocated outside the area served by the issuing GSA IFMS fleet management center, the affected GSA IFMS fleet manager will ascertain if the using agency is fully participating at the new location (see § 101-39.204). If this criterion is met, the vehicle will normally be transferred to the GSA IFMS fleet management center nearest the new location. If the agency is other than a full participant, the transfer will be treated as a request for additional vehicles at the new location.

Subpart 101-39.3—Use and Care of GSA Interagency Fleet Management System Vehicles

19. The heading for subpart 101-39.3 is revised as set forth above.

20. Section 101-39.300 is revised to read as follows:

§ 101-39.300 General.

(a) The objective of the General Services Administration (GSA) Interagency Fleet Management System (IFMS) is to provide efficient and economical motor vehicle and related services to participating agencies. To attain this objective, policies and procedures for use and care of GSA IFMS vehicles provided to an agency or activity are prescribed in this subpart.

(b) To operate a motor vehicle furnished by the GSA IFMS, civilian employees of the Federal Government shall have a valid State, District of Columbia, or Commonwealth operator's license for the type of vehicle to be operated and some form of agency identification. Non-Government personnel, such as contractors, shall have a valid license for the type of equipment to be operated when using vehicles supplied by the GSA IFMS (this may include a Commercial Driver's License). All other vehicle operators, and Federal civilian employees that have a valid civilian operator's license,

but not for the type of equipment to be operated, must have in their possession an Optional Form 346, U.S. Government Motor Vehicle Operator's Identification Card, for the type of equipment to be operated. Specific regulations covering procedures and qualifications of Government motor vehicle operators are contained in 5 CFR part 930, issued by the Office of Personnel Management.

(c) To operate a motor vehicle furnished by GSA, drivers and occupants shall wear safety belts whenever the vehicle is in operation. The vehicle operator shall ensure that all vehicle occupants are wearing their safety belts prior to operating the vehicle.

(d) Reasonable diligence in the care of GSA IFMS vehicles shall be exercised by using agencies and operators at all times. Officials or employees failing to take proper care of motor vehicles issued to them may be refused further authorization to use GSA IFMS vehicles after reasonable notice has been provided by GSA to the head of the local activity concerned.

21. Section 101-39.301 is amended by revising the introductory text and paragraph (d) to read as follows:

§ 101-39.301 Utilization guidelines.

The following guidelines may be employed by agencies requesting GSA Interagency Fleet Management System (IFMS) services or by GSA to determine whether miles traveled necessitate a full-time vehicle assignment. Agencies should be able to justify the retention of vehicles not meeting utilization guidelines described below.

(d) Other trucks and special purpose vehicles. Utilization guidelines for other trucks and special purpose vehicles have not been established. However, the head of the local office of the agency or his/her designee shall cooperate with GSA IFMS fleet management center personnel in studying the use of this equipment and take necessary action to ensure that it is reasonably utilized or returned to the issuing GSA IFMS fleet management center.

22. Sections 101-39.302 and 101-39.303 are revised to read as follows:

§ 101-39.302 Rotation.

GSA Interagency Fleet Management System (IFMS) vehicles on high mileage assignments may be rotated with those on low mileage assignments to assure more uniform overall fleet utilization. In cases where the continued use of a vehicle is essential but its miles traveled are not consistent with utilization guidelines, the using agency may be required to justify, in writing, retention

of the vehicle. Each GSA IFMS fleet manager will decide on a case-by-case basis which vehicles, if any, will be rotated based upon vehicle type, vehicle location, location and availability of replacement vehicles, and the mission of the using agency.

§ 101-39.303 Maintenance.

In order to ensure uninterrupted operation of GSA Interagency Fleet Management System (IFMS) vehicles, safety and preventive maintenance inspections will be performed at regularly scheduled intervals as directed by GSA. Users of GSA IFMS vehicles shall comply with the safety and preventive maintenance notices and instructions issued for the vehicle.

23. Section 101-39.304 is revised to read as follows:

§ 101-39.304 Modification or installation of accessory equipment.

The modification of a GSA Interagency Fleet Management System (IFMS) vehicle or the permanent installation of accessory equipment on these vehicles may be accomplished only when approved by GSA. For the purpose of this regulation, permanent installation means the actual bolting, fitting, or securing of an item to the vehicle. Such modification or installation of accessory equipment must be considered by the agency as essential for the accomplishment of the agency's mission. The request for such modification or installation shall be forwarded to the appropriate GSA IFMS regional fleet manager for consideration. Accessory equipment or other after-market items which project an inappropriate appearance, such as radar detectors, will not be used on GSA IFMS vehicles. Decorative items (i.e., bumper stickers and decals) will not be used on IFMS vehicles unless authorized by the Director, Fleet Management Division, GSA.

24. Section 101-39.305 is revised to read as follows:

§ 101-39.305 Storage.

(a) GSA Interagency Fleet Management System (IFMS) vehicles shall be stored and parked at locations which provide protection from pilferage or damage. In the interest of economy, no cost storage shall be used whenever practicable and feasible.

(b) The cost of parking and storing GSA IFMS vehicles is the responsibility of the using agency. Prior to the procurement of other than temporary parking accommodations in urban centers (see § 101-18.102), agencies shall determine the availability of

Government-owned or -controlled parking space in accordance with the provisions of § 101-17.101-6.

25. Section 101-39.306 is amended by revising the introductory text and paragraphs (d), (g)(1), (g)(2), and (g)(4) to read as follows:

§ 101-39.306 Operator's packet.

The GSA Interagency Fleet Management System (IFMS) will provide each system vehicle with an operator's packet containing the following information and instructions. This information should remain in the vehicle at all times, except when inconsistent with authorized undercover operations.

(d) The telephone numbers of responsible GSA IFMS fleet management center employees to be called in case of accident or emergency;

(g) * * *

(1) Standard Form 91, Operator's Report of Motor Vehicle Accident;

(2) Standard Form 94, Statement of Witness;

(4) Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator.

26. Section 101-39.307 is revised to read as follows:

§ 101-39.307 Grounds for withdrawal of vehicle.

GSA may withdraw the issued vehicle from further use by the agency or its contractor if it is determined that the using agency has not complied with the provisions of subpart 101-39.3, that the vehicle has not been maintained in accordance with GSA IFMS maintenance standards, that the vehicle has been used improperly, or that the using agency has not reimbursed GSA for vehicle services. Improper use includes, but is not limited to, credit card abuse and misuse, continued violation of traffic ordinances, at-fault accidents, reckless driving, driving while intoxicated, use for other than official purposes, and incidental use when not authorized by the using agency.

Subpart 101-39.4—Accidents and Claims

27. Section 101-39.400 is revised to read as follows:

§ 101-39.400 General.

Officials, employees, and contractors responsible for the operation of General Services Administration (GSA) Interagency Fleet Management System

(IFMS) vehicles shall exercise every precaution to prevent accidents. In case of an accident, the employee or official concerned shall comply with the procedures established by this subpart.

28. Section 101-39.401 is amended by revising the introductory text of paragraph (a), (a)(1), (b) and (c) to read as follows:

§ 101-39.401 Reporting of accidents.

(a) The operator of the vehicle is responsible for notifying the following persons immediately, either in person, by telephone, or by facsimile machine of any accident in which the vehicle may be involved:

(1) The manager of the GSA IFMS fleet management center issuing the vehicle;

(b) In addition, the vehicle operator shall obtain and record information pertaining to the accident on Standard Form 91, Operator's Report of Motor Vehicle Accident. Only one copy of the Standard Form 91 is required. When completed, the Standard Form 91 shall be given to the vehicle operator's supervisor. The vehicle operator shall also obtain the names, addresses, and telephone numbers of any witnesses and, wherever possible, have witnesses complete Standard Form 94, Statement of Witness, and give the completed Standard Form 94 and other related information to his or her supervisor. The vehicle operator shall make no statements as to the responsibility for the accident except to his or her supervisor or to a Government investigating officer.

(c) Whenever a vehicle operator is injured and cannot comply with the above requirements, the agency to which the vehicle is issued shall report the accident to the State, county, or municipal authorities as required by law, notify the GSA IFMS fleet manager of the center issuing the vehicle as soon as possible after the accident, and complete and process Standard Forms 91 and 91A. A completed copy of the accident report shall be forwarded to the appropriate GSA office as outlined in the vehicle operator's packet.

29. Section 101-39.402 is revised to read as follows:

§ 101-39.402 Recommendations for disciplinary action.

If a vehicle operator fails to report an accident involving a GSA Interagency Fleet Management System (IFMS) vehicle in accordance with § 101-39.401, or if the operator has a record showing a high accident frequency or cost, GSA will notify the appropriate official(s) of the operator's agency, and will advise

that either failure to report an accident or poor driving record is considered by GSA to be sufficient justification for the agency to suspend the right of the employee to use a GSA IFMS vehicle.

30. Section 101-39.403 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 101-39.403 Investigation.

(a) Every accident involving a GSA Interagency Fleet Management System (IFMS) vehicle shall be investigated and a report furnished to the manager of the GSA IFMS fleet management center which issued the vehicle.

(c) When property damage is \$500 or more and/or bodily injury is involved, the agency employing the vehicle operator shall investigate the accident within 48 hours after the actual time of occurrence. Also, GSA may investigate any accident involving an IFMS vehicle when deemed necessary. Should such investigation develop additional information, the additional data or facts will be furnished to the using agency for its information.

(d) Two copies of the complete report of the investigation, including Standard Form 91A, Investigation Report of Motor Vehicle Accident, photographs, measurements, doctor's certificate of bodily injuries, police investigation reports, operator's statement, agency's investigation reports, witnesses' statements, and any other pertinent data shall be furnished to the manager of the GSA IFMS fleet management center issuing the vehicle.

31. Section 101-39.404 is revised to read as follows:

§ 101-39.404 Claims in favor of the Government.

Whenever there is any indication that a party other than the operator of the GSA Interagency Fleet Management System (IFMS) vehicle is at fault and that party can be reasonably identified, the agency responsible for investigating the accident shall submit all original documents and data pertaining to the accident and its investigation to the servicing GSA IFMS fleet management center. The GSA IFMS regional fleet manager, or his/her representative, will initiate the necessary action to effect recovery of the Government's claim.

32. Section 101-39.405 is revised to read as follows:

§ 101-39.405 Claims against the Government.

(a) Whenever a GSA Interagency Fleet Management System (IFMS) vehicle is involved in an accident

resulting in damage to the property of, or injury to, a third party, and the third party asserts a claim against the Government based on the alleged negligence of the vehicle operator (acting within the scope of his or her duties), it shall be the responsibility of the agency employing the person who was operating the GSA IFMS vehicle at the time of the accident to make every effort to settle the claim administratively to the extent that the agency is empowered to do so under the provisions of 28 U.S.C. 2672. It shall be the further responsibility of the agency, in the event that administrative settlement cannot be effected, to prepare completely, from an administrative standpoint, the Government's defense of the claim. The agency shall thereafter transmit the complete case through appropriate channels to the Department of Justice.

(b) Except for the exclusions listed in § 101-39.406, the agency employing the vehicle operator shall be financially responsible for damage to a GSA IFMS vehicle.

(c) If a law suit is filed against the agency using a GSA Interagency Fleet Management System (IFMS) vehicle, the agency shall furnish the appropriate GSA Regional Counsel with a copy of all papers served in the action. When requested, GSA's Regional Counsel will cooperate with and assist the using agency and the Department of Justice in defense of any action against the United States, the using agency, or the operator of the vehicle, arising out of the use of a GSA IFMS vehicle.

33. Section 101-39.406 is revised to read as follows:

§ 101-39.406 Responsibility for damages.

(a) GSA will charge the using agency all costs resulting from damage, including vandalism, theft, and parking lot damage, to a GSA Interagency Fleet Management System (IFMS) vehicle which occurs during the period that the vehicle is assigned or issued to that agency, to an employee of that agency, or to the agency's authorized contractor; however, the using agency will not be held responsible for damages to the vehicle if it is determined by GSA, after a review on a case by case basis of the documentation required by § 101-39.401, that damage to the vehicle occurred:

(1) As a result of the negligent or willful act of a party other than the agency (or the employee of that agency) to which the vehicle was assigned or issued and the identity of the party can be reasonably determined;

(2) As a result of mechanical failure of the vehicle, and the using agency (or its employee) is not otherwise negligent.

Proof of mechanical failure must be submitted; or

(3) As a result of normal wear and tear such as is expected in the operation of a similar vehicle.

(b) Agencies using GSA IFMS services will be billed for the total cost of all damages resulting from neglect or abuse of assigned or issued GSA IFMS vehicles.

(c) If an agency is held responsible for damages, GSA will charge to that agency all costs for removing and repairing the GSA IFMS vehicle. If the vehicle is damaged beyond economical repair, GSA will charge all costs to that agency, including fair market value of the vehicle less any salvage value. Upon request, GSA will furnish an accident report, where applicable, regarding the incident to the agency. Each agency shall be responsible for disciplining its employees who are guilty of damaging GSA IFMS vehicles through misconduct or improper operation, including inattention.

(d) If an agency has information or facts that indicate that it was not responsible for an accident, the agency may furnish the data to GSA requesting that costs charged to and collected from it be credited to the agency. GSA will make the final determination of agency responsibility based upon Government findings, police accident reports, and any available witness statements.

(e) When contractors or subcontractors of using agencies are in accidents involving GSA IFMS vehicles, the agency employing the contractor will usually be billed directly for all costs associated with the accident. It will be the responsibility of the using agency to collect accident costs from the contractor should the contractor be at fault.

34. Subpart 101-39.49 is revised to read as follows:

Subpart 101-39.49—Forms

§ 101-39.4900 Scope of subpart.

This subpart provides the means for obtaining forms prescribed or available for use in connection with subject matter covered in part 101-39.

§ 101-39.4901 Obtaining standard and optional forms.

Standard and optional forms referenced in Part 101-39 may be obtained through the General Services Administration, Inventory and Requisition Management Branch, Attn: FCNI, Washington, DC 20406, or through regional GSA Federal Supply Service Bureaus. GSA regional offices will provide support to requesting activities needing forms.

Dated: July 16, 1991.

Richard G. Austin,

Administrator of General Services.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 247]

Organization and Delegation of Powers and Duties; Delegation of Authority to the Maritime Administration

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends 49 CFR 1.66 with respect to delegation of authority from the Secretary of Transportation (Secretary). It delegates to the Maritime Administrator authority conferred by 46 App. U.S.C. 836 relating to prosecution of forfeitures incurred under the provisions of the Shipping Act, 1916. The rule also amends the existing citations to title 46, United States Code, contained in 49 CFR 1.66 and 1.67. This amendment reflects a partial revision and enactment into positive law of title 46 that resulted in the unrevised portion being redesignated as title 46 App. U.S.C.

EFFECTIVE DATE: November 26, 1991.

FOR FURTHER INFORMATION CONTACT:

Linda Somerville, Vessel Transfer and Disposal Officer, Maritime Administration, room 7324, 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366-5821; or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement, room 10424, Department of Transportation, 400 Seventh Street, SW., room 10424, Washington, DC 20590, telephone: (202) 366-9307.

SUPPLEMENTARY INFORMATION: Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) requires the approval of the Secretary for the sale, mortgage, lease, charter, delivery or transfer in any manner to a noncitizen of any interest in or control of a vessel documented under United States law, or for any agreement to do so, or the transfer of a documented vessel, or a vessel last documented under laws of the United States, to foreign registry. It provides that a documented vessel may be seized by and forfeited to the United States Government if the vessel is in violation of this provision of law. The Secretary