Brownsville, TX—Brownsville/South Padre Island Int'l, ILS RWY 13R, Amdt. 11
Brownsville, TX—Brownsville/South Padre Island Int'l, RNAV RWY 17, Amdt. 3
Brownsville, TX—Brownsville/South Padre Island Int'l, RNAV RWY 35, Amdt. 3
Coriscana, TX—C. David Campbell Field-Corsicana Muni, NDB RWY 32, Amdt. 1
Jasper, TX—Japser County-Bell Field, NDB RWY 18, Amdt. 6
McGregor, TX—McGregor Muni, VOR RWY 17, Amdt. 5
Leesburg, VA—Leesburg Muni/Godfrey Field, LOC RWY 17, Orig.
Madison, WI—Morey, VOR-A, Amdt. 6
Madison, WI—Morey, VOR-B, Amdt. 5

Effective May 2, 1991

Bunnell, FL—Flagler County, RADAR-1, Amdt. 2, CANCELLED
Covington/Cincinnati, OH, KY—Greater Cincinnati Intl, ILS RWY 36R, Orig.
Covington/Cincinnati, OH, KY—Greater Cincinnati Intl, RADAR-1, Amdt. 22
Indianapolis, IN—Indianapolis Metropolitan, NDB RWY 14, Orig.
Osceola, IA—Osceola Municipal, VOR/DME RWY 18, Orig.
New York, NY—LaGuardia, VOR-E, Amdt. 1
New York, NY—LaGuardia, VOR-F, Amdt. 1
New York, NY—LaGuardia, VOR-G, Amdt. 1
New York, NY—LaGuardia, ILS RWY 22, Amdt. 18
Raleigh-Durham, NC—Raleigh-Durham International, RADAR-1, Amdt. 5
Grundy, VA—Grundy Muni, VOR RWY 4, Amdt. 3, CANCELLED
Wise, VA—Lonesome Pine, VOR RWY 24, Amdt. 4, CANCELLED
Wise, VA—Lonesome Pine, VOR/DME RWY 24, Amdt. 1, CANCELLED

Effective March 19, 1991

Galveston, TX—Scholes Field, ILS RWY 13, Amdt. 8

Note:The FAA published an Amendment in Docket No. 46494, Amdt. No. 1447 to Part 97 of the Federal Aviation Regulations (VOL 56 FR No. 52 Page 11371; dated 18 MAR 91) under Section 97.33 and 97.29 effective 2 MAY 91, which is hereby amended as follows:

Chicago/Aurora, IL—Aurora Muni . . . RNAV RWY 27 Amdt. 1 and ILS RWY 9 Amdt. 1 are hereby rescinded. Original procedures remain in effect.

[FR Doc. 91-8303 Filed 4-9-91; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release Nos. 34-28869B; 35-25254B; IC-17991B]

Ownership Reports and Trading by Officers, Directors and Principal Security Holders

AGENCY: Securities and Exchange Commission.

ACTION: Technical amendment.

SUMMARY: The technical amendment adds a note to Instruction 4(a)(i) of Form 4 as published in Release No. 34-28869 (56 FR 7242 2/21/91).

EFFECTIVE DATE: May 1, 1991.

FOR FURTHER INFORMATION CONTACT: Office of the Chief Counsel, Division of Corporation Finance, (202) 272-2573, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Form 4 is described at § 249.104. The text of the Form and its instructions do not, and the technical amendment will not, appear in the Code of Federal Regulations. The following note is added to Instruction 4(a)(i) of Form 4:

Note: The amount of securities beneficially owned at the end of the month specified in Column 5 of Table I and Column 9 of Table II should reflect those holdings reported or required to be reported by the date of the Form. Transactions and holdings eligible for deferred reporting on Form 5 need not be reflected in the month end total unless the transactions were reported earlier or are included in this Form.

By the Commission,

Dated: April 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-8357 Filed 4-9-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 91-32]

Fuel Oil Blending—Creation of a New and Different Product for Purposes of the Coastwise Laws

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

ACTION: Notice of change of position.

SUMMARY: The U.S. Customs Service has concluded review of its position on fuel oil blending operations in regard to application of the coastwise laws. Customs has considered a fuel oil blending operation which changes the original product in sulfur content, specific gravity, pour point, and viscosity as creating a new and different product. This is significant since foreign-flag vessels are prohibited from transporting merchandise (including oil) between ports in the U.S. unless, prior to delivering the merchandise to its U.S. port of destination, it has been transformed into a new and different product from that which was laden in a U.S. port. Customs was concerned that fuel oil blending operations may not effect such a transformation and published a notice that it was reconsidering its position. After reviewing the comments received and the legal authority, Customs believes that fuel oil blending operations which change the four characteristics mentioned should not automatically be considered as having created a new and different product for purposes of the coastwise laws. Henceforth, prior to reaching such determinations, Customs will require the submission of data on the procedures of, and materials used in, such operations.

EFFECTIVE DATE: April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Glen Vereb, Carrier Rulings Branch, 202-566-5706.

SUPPLEMENTARY INFORMATION:

Background

Title 46, United States Code Appendix, section 883 (46 U.S.C. App. 883), commonly called the Jones Act, provides, in part, that no merchandise shall be transported between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in and documented under the laws of the United States and owned by citizens of the United States.

The case of *American Maritime Association* v. *Blumenthal*, 590 F. 2d 1156 (1978) (hereinafter *Blumenthal*), involved the applicability of 46 U.S.C. App. 883 to the transportation of crude oil by a foreign-flag tanker from Valdez, Alaska, to the U.S. Virgin Islands, and the subsequent transfer of products refined from that oil from the Virgin Islands to the continental U.S. The refining process turned the Alaskan crude oil into eleven different products, each different in name, physical and chemical character, and use, both from each other and from the crude oil. Because of the degree of transformation of the original crude oil brought about by these processes, it was determined that the refining had created new and different products from the Alaskan crude, and therefore their transportation by foreign-flag vessels from the Virgin Islands to the U.S. did not violate section 883.

Section 4.80b, Customs Regulations (19 CFR 4.80b), was promulgated after the *Blumenthal* case to state that merchandise is exempt from the restrictions of the coastwise laws if at an intermediate port or place other than a coastwise point it is manufactured or processed into a new and different product. The transformation of the merchandise is considered as having broken the continuity of the voyage. In applying this section to fuel oil blending operations, Customs has taken the position that such an operation which changed the original product in sulfur content, specific gravity, pour point, and viscosity created a new and different product.

Customs reviewed this position and became concerned that without specific data regarding the procedures of, and materials used in, fuel oil blending operations, it was not possible to determine whether a new and different product had been created. By notice in the **Federal Register** on November 1, 1989 (54 FR 46075), public comment was solicited concerning the extent to which blending is necessary to create a new and different product within the meaning of § 4.80b(a), or whether some degree of refining is necessary to create such a product. It was proposed to require parties seeking a determination about the effect of fuel oil blending operations to submit information concerning the procedures and specific data of such operations.

Analysis of Comments

The comments received can be grouped into two opposing categories. Representatives of domestic shipping lines and domestic oil refiners were concerned that Customs position on fuel oil blending had become a large loophole in the protection the Jones Act was designed to give to their interests. It was claimed that foreign ports, *e.g.*, those in the Caribbean, had become no more than transhipment stations used to allow lower-cost foreign-flag vessels to move fuel oil between coastwise points. This group would have Customs require refining of fuel oil in order to find a new and different product.

Comments on behalf of foreign-flag vessels and offshore blenders defended the position that a change in sulfur content, specific gravity, pour point, and viscosity brought about by blending did in fact create a new and different product. This group would prefer that any such blending continue to exempt fuel oil from the Jones Act.

Comments in Opposition to a Change in Position

Comment

Those commenters advocating no change in Customs position on fuel oil blending operations believe that changes in the sulfur content, specific gravity, pour point, and viscosity of fuel oil do in fact result in a new and different product for purposes of the coastwise laws. In support of their position, these commenters refer to the *Blumenthal* case in stating that it is the comparative characteristics of the original fuel oil versus the final product, not the process by which these characteristics are changed, that is determinative as to whether a new and different product has been produced.

In this same vein, several commenters advocate looking to the end use of the blended oil and to the "market realities" of how the final product is distributed and priced.

Response

Making the marketplace the determinative factor in fuel oil blending decisions will lead to differences concerning identical operations because of geographic location or seasonal fluctuation in pricing. Customs will not adopt a position which would lead to decisions dependent on location or fluctuating economic factors. Further, it is apparent that *Blumenthal* involved refined products and not a blending operation. Accordingly, parties seeking a determination concerning the ramifications of a fuel oil blending must submit data sufficient for Customs to assess the degree of change.

Comment

Several commenters opposing any change to the current position apparently did so based on their predictions of what a new position might require. For example, some commenters opposed a new position which would require refining of oil, or which would set minimum proportions for the constituent materials in a blended fuel oil.

Response

The modified position Customs is adopting requires neither of these.

Comment

Two commenters stated that to require parties to produce procedures and specific data of a blending operation prior to Customs determining whether such an operation produces a new and different product is impractical from an industry standpoint. These commenters believe that market conditions change so quickly in the fuel oil industry that deals will be lost while waiting for Customs to render decisions.

Response

It is Customs position that proper fuel oil blending determinations require submission of data sufficient to judge the degree of transformation of the original product. Of paramount concern is the administration of 46 U.S.C. App. 883, one of the many navigation laws enforced by Customs. However, in instances when we are informed that expedited treatment of a request is desired, we will respond as quickly as possible. Parties requesting fuel oil determinations should keep in mind that one of the key factors in our response time will be the thoroughness and organization of the information presented to us.

Comments in Favor of a Change in Position

Comment

Several commenters wrote expressing support for Customs proposal to require the party seeking a determination regarding a blending operation in relation to § 4.80b(a) to submit the procedures and specific data of such operations to Customs for review and approval prior to engaging in the operation. It is their view that due to the degree of uncertainty in this area and the potential for easy circumvention of § 4.80b(a) under Customs current position, adoption of this proposal is a means by which Customs can better ensure compliance with the Jones Act.

Response

Customs agrees that requiring submission on the procedures and materials of the operation will allow us to detect, and rule accordingly, on any operation undertaken merely to circumvent the coastwise laws.

Comment

Many of those favoring a change in position believed Customs should require some degree of refining. These commenters said that blending operations which change sulfur content, specific gravity, pour point, and viscosity are only diluting the physical characteristics of the original product instead of changing its molecular structure which, they maintain, is the test for determining whether a new and different product has been created for purposes of § 4.80b(a). They further state that refining is the only means by which molecular structure can be changed. These commenters cite *Blumenthal* in support of their position.

A similar comment was offered that changes in the four characteristics considered under Customs position are done merely to qualify oil for delivery to certain utilities which are required by environmental regulations to burn a particular type of fuel oil. Instead of those factors, the following tests for judging a fuel oil blending operation were offered: The application of heat which yields a change in chemical structure of the original substance;

boiling point range which can also indicate a change in chemical structure; verifiable pressure; a catalytic or other chemically induced process; intended use of the final product; and changes in the economic value of the final product.

Response

Customs believes that simply changing our position from one of regarding blending operations as creating new and different products to one of regarding refining operations as accomplishing that task is not supported by the record or by *Blumenthal*. For the same reasons, the price of the final product, or its intended use, cannot be determinative factors.

Statement of Position

After a review of all the comments submitted and the pertinent legal authority, Customs is abandoning the position that a fuel oil blending operation which changes sulfur content, specific gravity, pour point, and viscosity is automatically considered as creating a new and different product for purposes of § 4.80b(a), Customs Regulations. Henceforth, prior to reaching determinations regarding this matter, Customs will require the submission of data on the procedures of, and materials used in, a fuel oil blending operation. While such submissions will be considered on a case by case basis, Customs is cognizant of the holdings in *Blumenthal* and *National Juice Products Association, et al.*, v. *United States*, 628 F. Supp. 978 (1986) and the dicta therein, judicial precedents the application of which might require an adverse decision if the process involved is less than a refining of the product. Customs will review the data and, based on the facts of each operation, rule whether or not the merchandise is subject to the provisions of 46 U.S.C. App. 883.

Drafting Information

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

Approved: March 15, 1991.

Carol Hallett,
Commissioner of Customs.

John P. Simpson,
Acting Assistant Secretary of the Treasury.

[FR Doc. 91-8452 Filed 4-9-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 801

RIN 1215-AA49

Application of the Employee Polygraph Protection Act of 1988

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule, correction.

SUMMARY: The U.S. Department of Labor (DOL) is correcting errors in the preamble and text of the final rule which appeared in the **Federal Register** on March 4, 1991 (56 FR 9045).

FOR FURTHER INFORMATION CONTACT: Charles E. Pugh, Assistant Administrator, Office of Policy, Planning and Review, Wage and Hour Division, U.S. Department of Labor, room S-3506, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-5409. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: DOL promulgated the final text of revised regulations under the Employee Polygraph Protection Act of 1988 on March 4, 1991. The preamble and text of the final rule contained errors which are corrected in this notice. Dated at Washington, DC this 3rd day of April 1991.

Samuel D. Walker,
Acting Assistant Secretary for Employment Standards.

The following corrections are made to the preamble and regulatory text:

1. On page 9046, third column, line 35, "date" should read "data".
2. On page 9057, first column, line 18, "while" should read "While".
3. On page 9060, third column, line 8, "section" should be deleted.
4. On page 9061, first column, line 23, "percept'on" should read "perception".
5. On page 9061, first column, line 24, "detecto" should read "detector".

§ 801.3 [Corrected]

6. On page 9065, first column, in § 801.3(b), line 3, "the" should read "their".

§ 801.4 [Corrected]

7. On page 9065, second column, in § 801.4(d), line 4, "illicit" should read "elicit".

§ 801.13 [Corrected]

8. On page 9069, second column, in § 801.13(b)(2), line 6, "2I" should read "21".

§ 801.42 [Corrected]

9. On page 9077, first column, in § 801.42(a)(1), line 8, "or" at the beginning of the line should read "of".
10. On page 9077, second column, in § 801.42(b)(8) line 3, "person" should read "employer".

§ 801.53 [Corrected]

11. On page 9077, third column, in § 801.53(a) line 10, "§ 801.59" should read "§ 801.51".

§ 801.67 [Corrected]

12. On page 9079, first column, in § 801.67(g) line 4, "secretary" should read "Secretary".
13. On page 9079, first column, in § 801.67(g) line 6, "vacate" should read "Vacate".

§ 801.69 [Corrected]

14. On page 9079, first column, in § 801.69(a), in line 12, insert "A" before "copy".

§ 801.71 [Corrected]

15. On page 9079, second column, in § 801.71(c) line 11, the comma following "thereafter" should be deleted.

Part 801, Appendix A [Corrected]

16. On page 9080, first column, in Appendix A, line 4, a comma should be inserted between "dismiss" and "discipline".

[FR Doc. 91-8334 Filed 4-9-91; 8:45 am]

BILLING CODE 4510-27-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

RIN 3046-AA43

Procedural Regulations; Correction

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; correction.

SUMMARY: The Equal Employment Opportunity Commission is amending the delegation of authority contained in its revised procedural regulations published at 56 FR 9623 (March 7, 1991) to include the Director, Determinations Review Program.

EFFECTIVE DATE: April 8, 1991.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Acting Associate Legal Counsel or Kathleen Oram, Senior Attorney, at (202) 663-4669 (voice) or (202) 663-7026 (TDD).

Copies of this final rule are available in the following alternate formats: Large print, braille, electronic file on computer disk, and audio-tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice) or (202) 663–4399 (TDD).

SUPPLEMENTARY INFORMATION: In its March 7, 1991 publication of amendments to its procedural regulations, EEOC amended the manner in which no cause letters of determination would be issued and amended the delegation of authority to issue no cause letters of determination in § 1601.19 of its procedural regulations. For those charges in which field directors issued determinations prior to April 7, 1991, individuals had the right to seek review of that determination from the Determinations Review Program. In order to provide for the Director of the Determinations Review Program to review those determinations for which requests for review are pending, this amendment delegates authority to the Director of the Determinations Review Program to issue no cause letters of determination.

For the Commission.

Evan J. Kemp,

Chairman.

The following correction is made in 29 CFR 1601.19(a) published in the **Federal Register** March 7, 1991 (56 FR 9625).

1. The last sentence of § 1601.19(a) on page 9625, first column, is corrected to read as follows:

§ 1601.19 No cause determinations: Procedure and authority.

(a) * * * The Commission hereby delegates authority to the Program Director, Office of Program Operations, or upon delegation to the Directors, Field Management Programs, Director, Determinations Review Program, and Dirstrict Directors or upon delegation to Area Directors or Local Directors, except in those cases involving issues currently designated by the Commission for priority review, to issue no cause letters of determination.

* * * * *

[FR Doc. 91–8382 Filed 4–9–91; 8:45 am]

BILLING CODE 6570-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN 1219–AA17

Safety Standards for Explosives at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Stay of final rule provisions, and reopening of rulemaking record on specific provisions.

SUMMARY: MSHA published a final rule for safety standards for explosives at metal and nonmetal mines on January 18, 1991 (56 FR 2070). The rule was to become effective on March 19, 1991. Based upon all information gathered regarding specific provisions of the final rule, MSHA extended the effective date until May 20, 1991 (45 FR 9626). After further Agency analysis and review of information received, MSHA has determined that the effective date of several provisions of the final rule should be extended until further notice. MSHA is reopening the rulemaking record to allow the mining community an opportunity to submit further comment on these provisions. MSHA will also hold a public hearing regarding these provisions. The date and location of the hearing will be announced at a later time.

DATES: The effective date of the following provisions is extended until further notice: The definition of the term "blast site" in § 56.6000 and § 57.6000; paragraph (b) of § 56.6306 and § 57.6306, loading and blasting; the first sentence of paragraph (b) of § 56.6130 and § 57.6130, explosive material storage facilities; paragraph (a)(1) of § 56.6131 and § 57.6131, location of explosive material storage facilities and Appendix I to Subpart E—MSHA Tables of Distances; and paragraph (a) of § 56.6501 and § 57.6501, nonelectric initiating systems.

Written comments must be submitted on or before May 13, 1991.

ADDRESSES: Send written comments to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, room 631, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On January 18, 1991, MSHA published a final rule revising its safety standards for explosives at metal and nonmetal mines. In response to inquiries regarding the final rule, the Agency delayed the effective date of the final rule from March 19, 1991, to May 20, 1991, to allow the Agency time to review these issues (45 FR 9626).

Several parties questioned specific provisions in the final rule stating, among other things, that, as published, certain provisions in the rule would not enhance safety or would be too restrictive. MSHA has considered the questions raised, and in order to allow an opportunity for all viewpoints to be presented before reaching a decision on the matters, has determined that it would be appropriate to reopen the rulemaking record for comment on these provisions. Except for the provisions stayed by this notice, the effective date of the final rule will be May 20, 1991.

Issues

Commenters have raised the following questions about the stayed provisions. MSHA solicits comments from all parties on these issues only. Comments addressing unrelated issues will not be considered.

A. Blast Site

The final rule defines "blast site" in § 56.6000 as:

> The area where explosive material is handled during loading, including the perimeter formed by the blastholes and 50 feet in all directions from loaded holes [or holes to be loaded]. The 50-foot requirement also applies in all directions along the full depth of the hole.

The final rule defines "blast site" in § 57.6000 as:

> The area where explosive material is handled during loading, including the perimeter formed by the blastholes and 50 feet in all directions from loaded holes [or holes to be loaded]. The 50-foot requirement also applies in all directions along the full depth of the hole. In underground mines, 15 feet of solid rib or pillar can be substituted for the 50-foot distance.

The term blast site is used in several places in the rule, including §§ 56/57.6306(b) which provides that:

> Once loading begins, the only activity permitted within the blast site shall be activity directly related to the blasting operation, and occasional haulage activity near the base of the highwall being loaded where no other haulage access exists.

A specific issue raised is that the application of the definition to the language of §§ 56/57.6306(b) is too restrictive and would eliminate the currently accepted mining method of vertical crater retreat mining. Another objection is that the definition and its application would severely impact on the mining cycle in some mines by precluding necessary activities from taking place at the blast site. Activities mentioned included surveying, gas checks and reopening of plugged holes. The Agency would like more specific information on the types of mining adversely affected and specific examples as to where the definition and its application would be overly restrictive.