

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revokes the Class D airspace area and establishes Class E airspace at Imperial County Airport, CA. The El Centro NAF, CA, Class D airspace area description is modified to reflect this change. An operational airport traffic control tower is required to retain Class D airspace. Imperial County Airport does not have an airport traffic control tower. Consequently, the FAA is revoking this Class D airspace area. Because this action is a minor technical amendment in which the public would not be particularly interested, I find that notice and public procedure under U.S.C. 553(b) are unnecessary.

The coordinates for this airspace docket are based on North American Datum 83. Class D and Class E airspace designations are published in Paragraphs 5000 and 6002, respectively, of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000—General

* * * * *

AWP CA D Imperial County, CA [Removed]

Imperial County, CA
(Lat. 32°50'03" N., long. 115°34'43" W.)

* * * * *

AWP CA D El Centro NAF, CA [Revised]

El Centro NAF, CA
(lat. 32°49'45" N., long. 115°40'18" W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of El Centro NAF, excluding that airspace east of long. 115°37'18" W. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6002—Class E airspace areas designated as a surface area for an airport

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AWP CA E Imperial County, CA [New]

Imperial County, CA
(lat. 32°50'03" N., long. 115°34'43" W.)

That airspace extending upward from the surface within a 4-mile radius of the Imperial County Airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Director

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Issued in Los Angeles on May 31, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94-14290 Filed 6-10-94; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 101, 111, 123, 128, 141, 143, 145, 148, 159

[T.D. 94-51]

RIN 1515-AB53

Express Consignments; Formal and Informal Entries of Merchandise; Administrative Exemptions

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

ACTION: Interim regulations; solicitation of comments.

SUMMARY: The amendments contained in this document are being published as interim regulations to implement certain statutory amendments to the Customs laws regarding administrative exemptions. These statutory amendments are contained in the Customs modernization provisions of the North American Free Trade Agreement Implementation Act. Also, the interim regulations clarify the procedures for shipments brought into the United States by express consignment operators or carriers and make clear that all shipments carried into the United States by express consignment operators or carriers are required to be entered, unless specifically exempt from entry. These interim regulations also implement the Customs modernization provisions in the North American Free Trade Agreement Implementation Act exempting from entry certain merchandise (undeliverable shipments, railway freight locomotives and cars, and instruments of international traffic).

DATES: Interim rule effective July 28, 1994; comments must be received on or before July 13, 1994.

ADDRESSES: Written comments (preferably in triplicate) must be submitted to U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW., suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Office of Regulations and Rulings, (202-482-7040).

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the President signed into law Public Law 103-182, the North American Free Trade Agreement Implementation Act (107 Stat. 2057). Title VI of this Act, popularly known as

the Customs Modernization Act (the Act) amended certain Customs laws. Section 651 of the Act amended section 321, Tariff Act of 1930, as amended (19 U.S.C. 1321).

Before its amendment by the Act, section 321 authorized administrative exemptions from duty and taxes on articles such as gifts and personal and household goods, and in certain other situations. Specifically, section 321 authorized the Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, to disregard a difference of less than \$10 between the duty actually due on an entry and the estimated duties deposited. On the same basis, section 321 authorized the Secretary to admit free of duty and tax any article the value of which was less than \$50 in the case of bona fide gifts (\$100 if the gift was from certain island possessions) sent from persons in foreign countries to persons in the United States. Section 321 authorized the Secretary to admit free of duty and tax any article the value of which was less than \$25 in the case of personal or household articles accompanying the traveler. In all other cases (*i.e.*, if not a bona fide gift sent from a person in a foreign country to a person in the United States or a personal or household article accompanying a traveler), the Secretary was authorized to admit free of duty and tax any article the value of which was less than \$5.

In the last three cases (*i.e.*, bona fide gifts, personal or household articles, and all other cases), the exemptions were subject to the condition that the aggregate fair retail value in the country of shipment of articles imported by one person on one day could not exceed the authorized amount. Also, the exemptions in these cases were not to be granted in any case in which merchandise covered by a single order or contract was forwarded in separate lots to secure the benefit of the provision.

The Secretary was authorized to prescribe regulations to implement these provisions. Section 321 specifically authorized the Secretary to diminish any of the dollar amounts referred to above.

Section 651 of the Act increased the dollar amounts described and, instead of setting maximum dollar amounts below which the Secretary was authorized to make the exemptions applicable, authorized the Secretary to make the exemptions applicable to an amount to be specified in regulations, but not less than a stated amount. That

is, the amended section 321 now provides minimum dollar amounts for the exemptions.

In the case of the difference between duty actually due on an entry and the estimated duties deposited, the dollar amount was increased to a minimum of \$20. Also, this provision was changed to authorize Customs to apply the exemption to the total of duties, fees, and taxes, instead of only duties and taxes, as had been the case. In the case of bona fide gifts, personal or household articles, and all other cases, the dollar amounts were respectively increased to \$100 (\$200, if the gift is from one of the named island possessions), \$200, and \$200, respectively.

Section 651 removed from § 321 the specific authorization to, by regulation, diminish any of the dollar amounts specified in the provision. Section 651 retained the specific authorization in section 321 for regulations to prescribe exceptions to any exemption whenever the Secretary finds such action is consistent with the purpose of the provisions or is necessary to protect the revenue or to prevent unlawful importations.

The provision in the Customs Regulations containing the authorization to disregard a difference of less than \$10 between the duty actually due on an entry and the estimated duties deposited is found in 19 CFR 159.6. The provisions in the Customs Regulations pertaining to the administrative exemption for bona fide gifts are found in 19 CFR 10.152 and 145.32 and the provision for personal or household articles is found in 19 CFR 148.51 (see also §§ 148.12, 148.64). The provisions in the Customs Regulations pertaining to the \$5 administrative exemption for all other articles are found in 19 CFR 10.151 and 145.31. Conditions for the exemptions provided for in 19 CFR 10.151 and 10.152 are currently found in 19 CFR 10.153.

Provisions pertaining to the administrative exemptions under section 321 are also found in part 128 of the Customs Regulations, which relates to express consignments. Section 128.24(d) of that part refers to low value shipments (*i.e.*, shipments valued at \$5 or less) and provides that such shipments must be segregated from shipments valued at more than \$5 when the special informal entry procedures provided for in part 128 are used. This provision was intended to cover articles which could be administratively exempted from duties and taxes under section 321(a)(2)(C) (see T.D. 89-53, published in the *Federal Register* on May 8, 1989 (54 FR 19561)).

These interim regulations conform the Customs Regulations to the changes made to section 321 by section 651 of the Act. In addition, the interim regulations clarify entry procedures applicable to merchandise subject to section 321. The dollar amounts currently provided for in 19 CFR 10.151 through 10.153, 145.31, 145.32, 148.12, 148.51, 148.64 and 159.6 are changed to the minimums provided for in the amended section 321.

The interim regulations amend part 143 to clarify the procedures for entries of shipments qualifying for the administrative exemptions in section 321(a)(2). Shipments covered in section 321(a)(2) are included in the merchandise which may be entered under the procedures provided for by regulation under 19 U.S.C. 1498. That provision authorizes the Secretary of the Treasury to prescribe rules and regulations for the declaration and entry of the merchandise described in the section. Entries which may be provided for by regulation under section 1498 are distinguished from entries which are required to be filed under 19 U.S.C. 1484 (*i.e.*, formal entries). As authorized by section 1498, these amendments provide that the person who may make entry of shipments covered by section 321(a)(2) is the owner, purchaser, or consignee of the merchandise or, when appropriately designated by one of these persons, a Customs broker licensed under 19 U.S.C. 1641. Under the same authority, an amendment to part 143 makes it clear that the person who may make entry of other merchandise (*i.e.*, merchandise not qualifying for the administrative exemptions in section 321(a)(2)) which qualifies for informal entry is the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a Customs broker licensed under 19 U.S.C. 1641.

A corresponding amendment to part 111, concerning Customs brokers, is added to the list of transactions for which a broker's license is not required. The new provision provides that a person entering merchandise qualifying for and entered under the informal entry procedures authorized by 19 U.S.C. 1498 is not required to be licensed as a broker unless required to be so licensed by regulations issued under the authority of section 1498. A reference to the provision included in part 143 is included in the new provision.

Also under the authority of 19 U.S.C. 1498, amendments are made to part 143 to clearly provide the procedures for entries of the merchandise covered in section 321(a)(2). Shipments of such

merchandise may be entered by presenting the bill of lading (or a manifest listing each bill of lading) or other document used to file or support entry. Manifest information is required consisting of the country of origin of the merchandise, shipper name, address and country, ultimate consignee name and address, specific description of the merchandise, quantity, and value. Cross references are provided to section §§ 148.12 and 148.62 to make it clear that entry by oral declaration continues to be allowed.

No amendment to the regulations is being promulgated at this time to implement the new subsection (a)(3) of section 321, added by section 651 of the Act. This provision allows Customs to waive the collection of duties, fees, and taxes due on entered merchandise when such duties, fees, or taxes are less than \$20, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected. Regulations implementing this provision are being delayed pending an analysis of the expense and inconvenience to the Government in view of the revenue involved.

Section 159.6, authorizing Customs to disregard a difference of less than \$10 (now \$20 under the amended section 321(a)(1)) between duties deposited and duties actually due on an entry, is amended to authorize Customs to apply the exemption to the total of duties, fees, and taxes, as provided for in section 321(a)(1), as amended by section 651 of the Act.

Customs also is making amendments to the Customs Regulations in part 128 relating to express consignments. These amendments are intended to make it clear that all shipments carried into the United States by express consignment operators and carriers are required to be entered, unless specifically exempt from entry.

Basically, a 3-tier approach applies to such shipments. That is, shipments valued in excess of \$1250 are required to be formally entered, as provided for under 19 U.S.C. 1484 in parts 141, 142, and 143 (except subpart C) of the Customs Regulations. Shipments valued between \$200 and \$1250 may be entered under the informal entry procedures, as provided for under 19 U.S.C. 1498 (unless the shipments consist of merchandise which may not be entered under those procedures). These procedures consist of the filing of a Customs Form 3461, either modified to cover all importations under the special procedures for express consignment operator or carrier importations or all such importations on a daily or flight

basis, and the advance filing of the manifest information provided for in 19 CFR 128.21. This information consists of the country of origin, shipper name, address and country, ultimate consignee name and address, specific description of the merchandise and the tariff classification of the merchandise, quantity, shipping weight, and value. An entry summary (Customs Form 7501) and estimated duties are required to be filed with Customs within 10 days of release of these shipments.

The third tier is for shipments valued at \$200 or less. These shipments also may be entered under the informal entry procedures, as provided for under 19 U.S.C. 1498 (unless the shipments consist of merchandise which may not be entered under those procedures). The procedures for these shipments are the same as those for the second-tier shipments (valued between \$200 and \$1250), except that the tariff classification of the merchandise is not required for the shipments and no entry summary or estimated duties is required to be filed.

An amendment to 19 CFR 101.1, adding a definition of "shipment", makes it clear that the monetary exemption for third-tier shipments is based on the bill of lading or other evidence used to file or support entry, or oral declaration when applicable. For example, if the document used to file or support entry is an individual bill of lading to the ultimate consignee in the United States, the monetary limitation is applied on the basis of the value of the shipment on the individual bill of lading. This is so whether the document used to file or support entry is itself the bill of lading or an advance manifest, as described in 19 CFR 128.21, listing each of the individual bills of lading. On the other hand, if the document used to file or support entry is a master bill of lading (as opposed to each individual bill of lading), the monetary limitation is applied on the basis of the total value of the shipments on the master bill of lading. The same is true of the application of the monetary limitation in section 321(a)(2) for other importations (i.e., those not involving an express consignment entity). This is so because the definition of "shipment" is for general purposes in chapter I of title 19 of the CFR, unless the context of the term requires a different meaning (see 19 CFR 101.1).

As is true generally under these amendments, the person who may make entry for the shipments valued between \$200 and \$1250 which may be entered under the informal entry procedures is the owner or purchaser of the shipment or, when appropriately designated by

the owner, purchaser, or consignee of the shipment, a Customs broker licensed under 19 U.S.C. 1641. The person who may make entry for the shipments valued \$200 or less which may be entered under the informal entry procedures is the owner, purchaser, or consignee or, when appropriately designated by one of these persons, a Customs broker licensed under 19 U.S.C. 1641. As discussed above, the authority for this distinction is that these entries are made under 19 U.S.C. 1498 and the Secretary of the Treasury is specifically authorized to prescribe rules and regulations for the declaration and entry of such shipments.

Amendments are also made to part 141. Section 141.4 is amended to clarify that shipments subject to the administrative exemptions under § 321(a)(2) must be entered under special informal entry procedures for lower value shipments. Only merchandise specifically exempt from entry (i.e., so-called intangibles, under General Note 13 (formerly General Note 4), HTSUS, and certain vessels) is exempt from all forms of entry. Also, a conforming amendment to the citation of the General Note in § 141.4 is necessary because of the redesignation of the General Note (i.e., General Note 4, HTSUS, the predecessor to General Note 13, was redesignated as General Note 13; see Presidential Proclamation 6641, December 15, 1993, published in the *Federal Register* on December 20, 1993 (58 FR 67032, 66867)).

Undeliverable Shipments

The North American Free Trade Agreement Implementation Act amended General Note 4 (now General Note 13) by adding other articles which are exempt from entry (section 681 of Pub. L. 103-182). The newly added articles are articles which are returned as undeliverable to the United States within 45 days of their departure from the United States. The articles may not have left the custody of either the carrier or foreign customs service during that time. The departure from the United States of articles for which the exemption is granted may not be treated as satisfying any requirement for exportation in order to receive a benefit from, or meet an obligation to, the United States.

The amendment to § 141.4 implements this provision. The amendment requires the person claiming the exemption to certify that the merchandise complies with the provision. In addition, the amendment requires the person claiming the exemption to provide, upon request by

Customs, any evidence necessary to support the claim.

Other Exemptions From Entry

Section 681 of the Act also added a provision to the tariff schedule exempting from entry and release requirements railway locomotives (provided for in headings 8601 and 8602, HTSUS) and railway freight cars (provided for in heading 8606, HTSUS) on which no duty is owed (Additional U.S. Note 1, Chapter 86, HTSUS). Also, section 681 of the Act provided for the addition of a Note to Chapter 99, HTSUS, under which certain Canadian railway freight cars provided duty-free treatment in subheadings 9905.86.05 and 9905.86.10, HTSUS, are exempt from entry and release requirements. The railway freight cars provided for in subheading 9905.86.05, HTSUS, are those produced before July 1, 1991, or if entered after July 1, 1994, produced not less than 3 years before the date of importation, and provided for in heading 8606, HTSUS. The railway freight cars provided for in subheading 9905.86.10, HTSUS, are those imported for temporary use in transportation in the United States and certified by the importer to be exported within 1 year from the date of importation and provided for in heading 8606, HTSUS. In the case of both Notes (to be added to chapter 86 and 99, HTSUS), the Secretary of the Treasury is authorized by regulation to establish appropriate reporting requirements and to require that a bond be posted to ensure compliance.

The amendment to § 141.4 implements these provisions. In the case of railway locomotives and freight cars which are exempt from entry on the basis that no duty is owed on them and they are classified in headings 8601, 8602, or 8606, HTSUS (i.e., without reference to subheading 9905.86.05 or 9905.86.10, HTSUS), no special evidentiary requirement is imposed because duty-free treatment is not conditioned on any special condition (other than duty-free status because of origin).

In the case of railway freight cars which are exempt from entry by virtue of subheading 9905.86.05 or 9905.86.10, HTSUS, because there are conditions other than the absence of duty being owed on the freight cars, the amendment contains special evidentiary requirements. The requirements, concerning the time of production of the freight car and the duration of the stay in the United States of the freight car, shall be met by a certification (documentary or electronic), subject to Customs verification. In the case of the

requirement to export the freight car within 1 year from the date of importation, in subheading 9905.86.10, HTSUS, the amendment specifically provides that a freight car admitted into the United States under this provision which is not exported within the 1 year period becomes subject to entry and the payment of any applicable duties.

As authorized by the statutory provision, the amendment provides that locomotives and freight cars described in Additional U.S. Note 1 of Chapter 86, HTSUS, and freight cars described in subheading 9905.86.05 or 9905.86.10, HTSUS, may be released only after the importer has filed a bond on Customs Form 301, containing either the basic importation and entry conditions (19 CFR 113.62) or the international carrier bond conditions (19 CFR 113.64). Amendments to 19 CFR 123.12 are added concerning the entry of foreign locomotives and equipment in international traffic, to add references to the provisions implementing these provisions.

Instruments of International Traffic

Section 681 of the Act added a provision to the tariff schedule exempting from formal entry procedures instruments of international traffic, such as containers, lift vans, rail cars and locomotives, truck cabs and trailers, etc. The provision also provided for the periodic reporting and payment of fees associated with the importation of such instruments of international traffic.

The exemption from entry for instruments of international traffic is already provided for in the Customs Regulations (see 19 CFR 10.41a). There are no fees associated with the importation of instruments of international traffic. Therefore, no substantive amendment to the Customs Regulations is necessary to implement this provision. However, to alert the public to the exemption from entry for instruments of international traffic, a provision is added referring to this exemption from entry and 19 CFR 10.41a in the list of exceptions from the general rule in § 141.4.

Accordingly, Customs is promulgating on an interim basis amendments as described above and set forth below.

Delayed Effective Date and Public Comment Requirements

The agency intends that these interim regulations become effective on the 45th day following the date of publication, i.e., 15 days after the close of the comment period. The agency believes it has good cause under 5 U.S.C. 553(d) (1) and (3) of the Administrative Procedure Act (APA) (5 U.S.C. 553) to promulgate

interim regulations because the regulations provide an immediate benefit to both the Government and the public by increasing exemptions which already exist. These interim regulations are intended to implement Congressional intent embodied in 19 U.S.C. 1321, as amended, that these exemptions, when granted, should exist at statutory minimums.

Furthermore, existing rights and obligations are not otherwise changed. The agency believes the public wants these new statutory minimums to become effective as soon as possible as the public should benefit from the efficiencies and savings resulting therefrom. In addition, the agency does not believe the public needs time to conform its conduct so as to avoid violation of these regulations. The due and timely execution of the agency's responsibilities would be unnecessarily impeded by a time consuming notice and comment period. The agency believes such delay is unnecessary because it does not expect the public to object to the regulations being promulgated as they merely provide the relief that Congress intended.

Even though, based on the discussion set forth above, Customs believes the amendments in this document may be promulgated on an interim basis and could be effective immediately, Customs is providing a 45-day delayed effective date, with a 30 day comment period preceding that effective date. This represents a practical compromise between the need for temporal urgency and the desirability of public participation in the rulemaking process.

In the spirit of the APA, the agency is soliciting public comment regarding its decision to promulgate these interim regulations and in delaying their effective date only for that period of time necessary to review any relevant comments regarding that decision. Unless the comments show that there exists good cause for not making the regulations effective on an interim basis, the regulations will become effective on an interim basis on the 45th day following the date of publication.

Comments

Consequently, the agency hereby solicits comments on both the substance of these regulations and their intended effective date. The comments should clearly state whether they address the substance of the interim rule or the agency's determination to make the rule effective on an interim basis. If, based on the comments, good cause is shown that the regulations should not become effective on an interim basis, a document will be issued withdrawing

the interim regulations before their effective date. If no such good cause is shown, the interim regulations will go into effect. The agency will then be able to gain experience with the interim regulation, fully consider substantive comments, and decide whether the interim regulation needs amendment before its promulgation as a final rule.

Consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. All such comments received from the public pursuant to this notice of rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street, NW., suite 4000, Washington, DC.

Regulatory Flexibility Act and Executive Order 12866

Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document is not a "significant regulatory action" under E.O. 12866.

Paperwork Reduction Act

The collections of information contained in this interim rulemaking were previously approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 under control numbers 1515-0069 (§§ 128.21, 128.23, 128.24) and 1515-0065 (§§ 141.4, 143.23).

Drafting Information

The principal author of this document was Russell Berger, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Foreign relations, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports.

19 CFR Part 123

Administrative practice and procedure, Aircraft, Bonds, Canada, Customs duties and inspection, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements, Vehicles, Vessels.

19 CFR Part 128

Carriers, Couriers, Customs duties and inspection, Express consignments, Imports.

19 CFR Part 141

Customs duties and inspection, Entry procedures, Invoices, Reporting and recordkeeping requirements.

19 CFR Part 143

Automated broker interface, Customs duties and inspection, Electronic entry filing, Imports, Invoice requirements.

19 CFR Part 145

Customs duties and inspection, Imports, Postal Service.

19 CFR Part 148

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 159

Liquidation of entries for merchandise, Suspension of liquidation pending disposition of American manufacturer's cause of action.

Amendments

Title 19, chapter I, parts 10, 101, 111, 123, 128, 141, 143, 145, 148, and 159 of the Customs Regulations (19 CFR parts 10, 101, 111, 123, 128, 141, 143, 145, 148 and 159) is amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority for part 10 is revised to read as follows, and the specific section authority for §§ 10.152 and 10.153 is removed:

Authority: 19 U.S.C. 66, 1202, 1321, 1481, 1484, 1498, 1508, 1623, 1624;

2. Part 10 is amended by revising the center heading preceding § 10.151 to read as follows:

Importations Not Over \$200 And Bona Fide Gifts

3. Section 10.151 is revised to read as follows:

§ 10.151 Importations not over \$200.

Subject to the conditions in § 10.153 of this part, the district director shall pass free of duty and tax any shipment of merchandise, as defined in § 101.1(o) of this chapter, imported by one person on one day having a fair retail value, as evidenced by the bill of lading (or other document filed as the entry) or manifest listing each bill of lading, in the country of shipment not exceeding \$200, unless he has reason to believe that the shipment is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation. Merchandise subject to this exemption shall be entered under the informal entry procedures (see subpart C, part 143, and §§ 128.24, 145.31, 148.12, and 148.62, of this chapter).

4. Section 10.152 is revised to read as follows:

§ 10.152 Bona-fide gifts.

Subject to the conditions in § 10.153 of this part, the district director shall pass free of duty and tax any article sent as a bona-fide gift from a person in a foreign country to a person in the United States, provided that the aggregate fair retail value in the country of shipment of such articles received by one person on one day does not exceed \$100 or, in the case of articles sent from a person in the Virgin Islands, Guam, and American Samoa, \$200. Articles subject to this exemption shall be entered under the informal entry procedures (see subpart C, part 143, and §§ 145.32, 148.12, 148.51, and 148.64, of this chapter). An article is "sent" for purposes of this section if it is conveyed in any manner other than on the person or in the accompanied or unaccompanied baggage of the donor or donee.

5. Section 10.153 is amended by removing the references to "\$50" and "\$100" wherever appearing in paragraphs (b), (d)(2), (d)(3) and (f), and by adding in place thereof, respectively, "\$100" and "\$200".

PART 101—GENERAL PROVISIONS

1. The authority for part 101 is revised to read as set forth below, and the authority citations following §§ 101.1 and 101.4 are removed.

Authority: 5 U.S.C. 301; 19 U.S.C. 2.66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States), 1623, 1624.

2. Section 101.1 is amended by adding a new paragraph (o) to read as follows:

§ 101.1 Definitions.

(o) *Shipment*. "Shipment" means the merchandise described on the bill of lading or other document used to file or support entry, or in the oral declaration when applicable.

PART 111—CUSTOMS BROKERS

1. The general authority for part 111, and the specific section authority for § 111.3, are revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1624, 1641.

Section 111.3 also issued under 19 U.S.C. 1484, 1498;

2. Section 111.3 is amended by adding a new paragraph (e) to read as follows:

§ 111.3 Transactions for which license is not required.

(e) *Informal entries*. A person entering merchandise qualifying for, and entered under, the informal entry procedures authorized by 19 U.S.C. 1498 is not required to be licensed as a broker, unless required to be so licensed under § 143.26 of this chapter, issued under the authority of 19 U.S.C. 1498.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority for part 123, and the specific section authority for §§ 123.12–123.18, are revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1624;

Sections 123.12 also issued under 19 U.S.C. 1202 (Chapter 86, Additional U.S. Note 1, HTSUS), 1322;

Sections 123.13–123.18 also issued under 19 U.S.C. 1322;

2. Section 123.12 is amended by revising the first sentence, respectively, of paragraphs (a)(1) and (a)(2), and by revising paragraph (b), to read as follows:

§ 123.12 Entry of foreign locomotives and equipment in international traffic.

(a) ***

(1) *On inward trip*. Unless formally entered and cleared through Customs into the United States, or unless exempt from entry as provided in § 141.4(b)(4) of this chapter, a foreign locomotive shall be used on the inward trip only in connection with taking the inbound train to the last place in a continuous

haul, including the switching of cars which it has hauled into the United States. * * *

(2) *On outward trip*. Unless formally entered and cleared through Customs into the United States, or unless exempt from entry as provided in § 141.4(b)(4) of this chapter, foreign locomotives may be used on the outward trip only in connection with through trains crossing the boundary, including switching to make up such trains. * * *

(b) *Admission of empty equipment*. Empty foreign railroad equipment shall be admitted to the United States without formal entry and payment of duty only if:

(1) The passengers or goods to be loaded are to be transported directly to or through a foreign country; or

(2) The equipment is exempt from entry as provided in § 141.4(b)(4) of this chapter.

PART 128—EXPRESS CONSIGNMENTS

1. The authority for part 128 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

2. Section 128.21 is amended by revising paragraph (a)(4) to read as follows:

§ 128.21 Manifest requirements.

(a) *Additional information*. * * *

(4) Specific description of the merchandise, and under the following conditions, the Harmonized Tariff Schedule of the United States (HTSUS) subheading number:

(i) If the merchandise is required to be formally entered as provided in § 128.25; or

(ii) If the merchandise is eligible for, and is entered under, the informal entry procedures as provided in § 128.24, but may not be passed free of duty and tax as consisting of a shipment of merchandise imported by one person on one day having a fair retail value in the country of shipment not exceeding \$200, as provided in § 128.24(e).

3. Section 128.23 is revised to read as follows:

§ 128.23 Entry requirements.

(a) *General rule*. Except as provided in paragraph (c) of this section, all articles carried by an express consignment entity shall be entered by a person with the right to file entry.

(b) *Procedures*—(1) *General*. All express consignment entities utilizing

the procedures in this part shall comply with the requirements of the Customs Automated Commercial System (ACS). These requirements include those under the Automated Manifest System (AMS), Cargo Selectivity, Statement Processing, the Automated Broker Interface System (ABI), and enhancements of ACS.

(2) *Entry number*. All entry numbers must be furnished to Customs in a Customs approved bar coded readable format in order to assist in the processing of express consignment cargo under the Customs Automated Commercial System (ACS).

(3) *Paper entry document waiver*. The district director is authorized, at the time of entry, to accept the appropriate electronic equivalent in lieu of entry documents for those entries designated as not requiring examination or review when the advance manifest requirements of § 128.21(a) of this part have been met.

(c) *Exception*. Articles specifically exempt from entry by § 141.4(b) of this chapter need not satisfy the general rule as set forth in paragraph (a) of this section.

4. Section 128.24 is amended by revising the last sentence of paragraph (b), and the first sentence of paragraph (c), and by revising paragraphs (d) and (e) to read as follows:

§ 128.24 Informal entry procedures.

(b) *Procedures*. * * * The party who may make entry under § 143.26 of this chapter may submit a copy of the invoice or the advance manifest as described in § 128.21 in lieu of other control documents.

(c) *Alternative procedure*. The party who may make entry under § 143.26 of this chapter may be required to submit an individual Customs Form 3461 covering the eligible shipments on a daily basis or by flight basis. * * *

(d) *Entry summary*. An entry summary (Customs Form 7501) must be presented in proper form, and estimated duties deposited within 10 days of the release of the merchandise under either the regular or alternative procedure described in this section. However, see paragraph (e) of this section if the shipment is valued at \$200 or less.

(e) *Shipments valued at \$200 or less*. Shipments valued at \$200 or less meeting the requirements of § 10.151 of this chapter shall be passed free of duty and tax. Such shipments must be segregated from shipments valued at more than \$200 if an advance manifest is used as the entry document, as provided for in § 128.21. If such an advance manifest is used as the entry document, the following are not

required to be provided for shipments qualifying under this paragraph:

(1) The Harmonized Tariff Schedule of the United States (HTSUS) subheading number (see § 128.21(a)(4)); and

(2) An entry summary (see paragraph (d) of this section).

5. Section 128.25 is revised to read as follows:

§ 128.25 Formal entry procedures.

Formal entry, as provided for under 19 U.S.C. 1484 in parts 141, 142, and 143 (except for subpart C), of this chapter, is required for all shipments exceeding the monetary limitation for informal entry (see § 128.24) and any shipment for which the informal entry procedures may not be used (see § 128.24).

§ 128.26 [Removed]

6. Section 128.26 is removed.

PART 141—ENTRY OF MERCHANDISE

1. The general authority for part 141 continues to read as follows, and the specific section authority for § 141.4 is revised to read as follows:

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

Section 141.4 also issued under 19 U.S.C. 1202 (General Note 13; Chapter 86, Additional U.S. Note 1; Chapter 89, Additional U.S. Note 1; Chapter 98, Subchapter III, U.S. Note 4; Chapter 99, Subchapter V, U.S. Note 9, Harmonized Tariff Schedules of the United States (HTSUS)), 1498;

2. Section 141.4 is revised to read as follows:

§ 141.4 Entry required.

(a) *General.* All merchandise imported into the United States is required to be entered, unless specifically excepted.

(b) *Exceptions.* The following are the exceptions to the general rule:

(1) The exemptions listed in General Note 13 to the Harmonized Tariff Schedule of the United States (HTSUS).

(2) Vessels (not including vessels classified in headings 8903 and 8907 and subheadings 8905.90.10 and 8906.00.10 or in Chapter 98, HTSUS, such as under subheadings 9804.00.35 or 9813.00.35). See also Chapter 89, Additional U.S. Note 1, HTSUS.

(3) Instruments of international traffic described in § 10.41a of this chapter, under the conditions provided for in that section. See also Chapter 98, Subchapter III, U.S. Note 4, HTSUS.

(4) Railway locomotives classified in heading 8601 or 8602, HTSUS, and freight cars classified in heading 8606,

HTSUS, on which no duty is owed (see paragraph (d) of this section). See Chapter 86, Additional U.S. Note 1, HTSUS; Chapter 99, Subchapter V, U.S. Note 9, HTSUS; see also 19 CFR part 123 for reporting requirements for railway equipment brought into the United States from Canada or Mexico.

(c) *Undeliverable articles.* The exemption from entry for undeliverable articles under General Note 13(e), HTSUS, is subject to the following conditions:

(1) The person claiming the exemption must submit a certification (documentary or electronic) that:

(i) The merchandise was intended to be exported to a foreign country;

(ii) The merchandise is being returned within 45 days of departure from the United States;

(iii) The merchandise did not leave the custody of the carrier or foreign customs;

(iv) The merchandise is being returned to the United States because it was undeliverable to the foreign consignee; and

(v) The merchandise was not sent abroad to receive benefit from, or fulfill obligations to, the United States as a result of exportation.

(2) Upon request by Customs, the person claiming the exemption shall provide evidence required to support the claim for exemption.

(d) *Railway locomotives and freight cars.* To be excepted from entry, railway locomotives and freight cars described in Additional U.S. Note 1 of Chapter 86, HTSUS, and railway freight cars from Canada described in subheading 9905.86.05 or 9905.86.10, HTSUS, are subject to the following requirements, as applicable:

(1) For a railway freight car described in subheading 9905.86.05, HTSUS, the importer shall certify, subject to Customs verification, that the freight car was produced before July 1, 1991, or if admitted after July 1, 1994, that the freight car was produced not less than 3 years before the date of importation;

(2) For a railway freight car described in subheading 9905.86.10, HTSUS, the importer shall certify, subject to Customs verification, that the freight car will be exported within 1 year from the date of importation. (Any railway freight car admitted into the United States under this provision which is not exported within the 1-year period becomes subject to entry and the payment of any applicable duties.);

(3) For railway locomotives and freight cars described in Additional U.S. Note 1 of Chapter 86, HTSUS, and railway freight cars described in subheading 9905.86.05 or 9905.86.10,

HTSUS, to be released in accordance with paragraph (b)(4) of this section, the importer shall first file a bond on Customs Form 301, containing the bond conditions set forth in either § 113.62 or 113.64 of this chapter.

(e) *Informal entry.* Merchandise qualifying for informal entry by regulation, pursuant to 19 U.S.C. 1498, is exempt from formal entry under 19 U.S.C. 1484 and this part, but must be entered as required under applicable regulations (see part 143, subpart C, and §§ 10.151 through 10.153, 128.24, 145.31, 145.32, 148.12, 148.13, 148.51, and 148.62 of this chapter).

PART 143—SPECIAL ENTRY PROCEDURES

1. The authority for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

2. Section 143.21 is amended by adding a paragraph (l) to read as follows:

§ 143.21 Merchandise eligible for informal entry.

* * * * *

(l) Shipments of merchandise qualifying for the administrative exemptions under 19 U.S.C. 1321(a)(2) and provided for in—

(1) Section 10.151 or 145.31 of this chapter (certain importations not exceeding \$200 in value);

(2) Section 10.152 or 145.32 of this chapter (certain bona-fide gifts not exceeding \$100 in value (\$200 in the case of articles sent from a person in the Virgin Islands, Guam, or American Samoa)); or

(3) Section 148.51 or 148.64 of this chapter (certain personal or household articles not exceeding \$200 in value).

3. Section 143.23 is amended by adding two new paragraphs (i) and (j) to read as follows:

§ 143.23 Form of entry.

* * * * *

(i) A shipment of merchandise not exceeding \$1250 in value which is imported by an express consignment operator or carrier and which meets the requirements in § 128.24 of this chapter may be entered as provided in that section.

(j) Except for mail importations (see §§ 145.31 and 145.32 of this chapter), or in the case of personal written or oral declarations (see §§ 148.12, 148.13 and 148.62 of this chapter), a shipment of merchandise not exceeding \$200 in value which qualifies for informal entry under 19 U.S.C. 1498 and meets the requirements in § 10.151 or § 10.152 of

this chapter may be entered by presenting the bill of lading or a manifest listing each bill of lading (see §§ 10.151, 10.152 and 128.24(e) of this chapter). The following information is required to be filed as a part of such entry:

- (1) Country of origin of the merchandise;
- (2) Shipper name, address and country;
- (3) Ultimate consignee name and address;
- (4) Specific description of the merchandise;
- (5) Quantity; and
- (6) Value.

4. Section 143.26 is added to read as follows:

§ 143.26 Party who may make informal entry of merchandise.

(a) *Shipments valued between \$200 and \$1250.* A shipment of merchandise valued between \$200 and \$1250 which qualifies for informal entry under 19 U.S.C. 1498 may be entered by the owner or purchaser of the shipment or, when appropriately designated by the owner, purchaser, or consignee of the shipment, a Customs broker licensed under 19 U.S.C. 1641.

(b) *Shipments valued at \$200 or less.* A shipment of merchandise valued at \$200 or less which qualifies for informal entry under 19 U.S.C. 1498 and meets the requirements in 19 U.S.C. 1321(a)(2) (see §§ 10.151, 10.152, 10.153, 145.31, 145.32, 148.51, 148.64, of this chapter) may be entered by the owner, purchaser, or consignee of the shipment or, when appropriately designated by one of these persons, a Customs broker licensed under 19 U.S.C. 1641.

PART 145—MAIL IMPORTATIONS

1. The general authority for part 145 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

2. Section 145.31 is revised to read as follows:

§ 145.31 Importations not over \$200 in value.

The district director shall pass free of duty and tax, without preparing an entry as provided for in § 145.12, packages containing merchandise having an aggregate fair retail value in the country of shipment of not over \$200, subject to the requirements set forth in §§ 10.151 and 10.153 of this chapter.

3. Section 145.32 is revised to read as follows:

§ 145.32 Bona-fide gifts.

The district director shall pass free of duty and tax, without preparing an entry as provided for in § 145.12, articles sent as bona-fide gifts from persons in foreign countries to persons in the United States having an aggregate fair retail value in the country of shipment not exceeding \$100 (\$200, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa), subject to the requirements set forth in §§ 10.152 and 10.153 of this chapter.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority for part 148 is revised, and the specific section authority for §§ 148.43, 148.51, 148.63, 148.64 and 148.74 continues, to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 17, Harmonized Tariff Schedule of the United States (HTSUS));

* * * * *

Sections 148.43, 148.51, 148.63, 148.64 and 148.74 also issued under 19 U.S.C. 1321;

* * * * *

§§ 148.12, 148.51, 148.64 [Amended]

2. Sections 148.12(b)(2)(ii), 148.51(b)(1), and 148.64(b)(1) are amended by removing the reference to "\$25" where appearing therein, and by adding in its place "\$200".

PART 159—LIQUIDATION OF DUTIES

1. The authority for part 159 continues to read as follows:

Authority: 19 U.S.C. 66, 1500, 1624. Subpart C also issued under 31 U.S.C. 5151. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

2. Section 159.6 is amended by removing the references to "\$10" and "duties" wherever appearing in paragraphs (a), (b) and (c), and by adding in place thereof, respectively, "\$20", and "duties, fees, and taxes"; and by revising paragraph (d) to read as follows:

§ 159.6 Difference between liquidated duties and estimated duties.

* * * * *

(d) *Customs duties and fees and internal revenue taxes netted for \$20 limit.* The assessments of Customs duties and fees and internal revenue taxes shall be separately stated on the entry at the time of liquidation, but the amounts of any differences shall be

netted when applying the \$20 minimum for issuance of a bill or refund check.

George J. Weise,
Commissioner of Customs.

Approved: May 26, 1994.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 94-14255 Filed 6-8-94; 4:40 pm]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 660

[FHWA Docket No. 93-16]

RIN 2125-AD13

Forest Highway Portion of Public Lands Highway Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is issuing revised Forest Highway (FH) Program regulations to conform to the requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Section 1032 of the ISTEA amends, among other things, 23 United States Code (U.S.C.) 202 and 204 to combine the FH category with the public lands highway category. The revised regulation will ensure expeditious and proper allocation of funds to provide public road access to the National Forest System (NFS).

EFFECTIVE DATE: July 13, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Burden, Chief, Program and Administration Division, Federal Lands Highway Office, (202) 366-9488, Mr. Curtis L. Page, Forest Highway Program Engineer, Federal Lands Highway Office, (202) 366-9489, or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366-1396, FHWA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: On December 18, 1991, the President signed the ISTEA, Public Law 102-240, 105 Stat. 1914. Section 1032 of the ISTEA amends 23 U.S.C. 202 and 204 by, among other things, incorporating new planning provisions, including metropolitan and statewide transportation plan requirements; establishing management systems provisions, including highway safety, bridges on and off Federal-aid highways, and highway pavements;

adding and revising definitions for key terms relating to the Federal Lands Highway Program; and modifying existing allocation procedures.

The primary purpose of the Federal Lands Highway Program is to provide public road funding to serve the Federal lands outside State or local government responsibility. Typically, the facilities serve recreational travel and tourism, protect and enhance natural resources, provide sustained economic development in rural areas, and provide needed transportation for Native Americans.

The FHWA's partnership with the Forest Service (FS) began in 1916 when the Federal-Aid Road Act appropriated funds for the construction and maintenance of roads and trails serving the national forests. There are currently over 25,000 miles of FHs, on State and local transportation systems, serving 191 million acres of national forest lands in 40 States plus Puerto Rico. These roads connect to the approximately 370,000 miles of forest development roads that are under the jurisdiction of the FS. The fiscal year 1994 (FY 94) authorization for FHs was \$113 million. On October 5, 1993, the FHWA published a notice of proposed rulemaking (NPRM) in the *Federal Register* (58 FR 51794). The following discussion addresses comments to the NPRM which were provided to the FHWA.

Development of Regulations

The final rule was developed by an interagency task force of the FHWA and the FS. The FHWA and the FS considered the comments received to the Docket for the regulation in developing the revisions to the NPRM for the final rule.

Relationship to Interim Guidance Issued December 26, 1991

On December 26, 1991, the FHWA issued interim guidance to aid States and the FS in complying with the new legislative requirements. The guidance was developed in consultation with FS headquarters staff and published in the *Federal Register* at 57 FR 14880 on April 23, 1992. This interim guidance is superseded by this regulation.

Conformance

This final rule is in accordance with part 450 of this title.

Written Comments Received to the Docket

Six commenters submitted 29 comments to the Docket regarding the NPRM. One Federal agency and five State highway agencies (SHAs)

commented on the NPRM. The majority of commenters offered specific suggestions for revisions. Some also offered minor editorial corrections and text enhancements. Most of the significant comments were directed at § 660.105—Planning and route designation—and at § 660.107—Allocations. All comments were considered and have been accommodated to the extent practical. In response to these comments, the FHWA has developed a final rule. A summary of the specific responses to comments raised on individual sections of the NPRM follows:

Section-by-Section Analysis

Section 660.101 Purpose

Comment: One commenter expressed the need to better describe the importance of the FH Program for access to and management of the NFS and its role as an integral part of the Federal Lands Highway Program.

Response: This section was expanded to better describe how the FH Program enhances local, regional, and national benefits of FHs funded under the Public Lands Highway category of the coordinated Federal Lands Highway Program. The FH Program provides safe and adequate transportation access to and through National Forest System (NFS) lands for visitors, recreationists, resource users, and others which is not met by other transportation programs, assists rural and community economic development, and promotes tourism and travel.

Section 660.103 Definitions

Comment: One commenter suggested that the definition of "public authority" be modified so that a public authority would be required to meet all authorities noted in the NPRM definition by changing the "or" condition to an "and" condition regarding the public authority's authority to finance, build, operate, "or" maintain toll or toll-free facilities.

Response: Because this definition is a title 23, U.S.C., definition, it was not revised, even though the "and" condition would make it more restrictive. Regulations may clarify or explain, but cannot revise, a statutory definition.

Comment: Another commenter suggested revising the definition of "forest road" to include a road which provides "access to" the NFS since many FHs in some States do not meet the criteria of a forest road as indicated by the proposed definition.

Response: This is also a title 23, U.S.C., definition and was not revised in

the final rule. The present wording for the definition of "forest road," as stated in 23 U.S.C. 101, is: "The term forest road or trail means a road or trail wholly or partly within, or adjacent to, and serving the NFS and which is necessary for the protection, administration, and utilization of the NFS and the use and development of its resources." This definition is adequate because a road which provides access to the NFS is considered to be serving the NFS. Also, the definition for FH allows for roads providing access to the NFS since it refers to forest roads, the definition of which allows access to the NFS.

Comment: One commenter suggested that the definition of "statewide transportation plan" be clarified by adding the phrase "pursuant to the provisions of part 450 of this title" at the end of the definition.

Response: Similar wording was used in the definition of Metropolitan Planning Organization (MPO) in this section. Therefore, the phrase was added to the end of the definition to clarify it. Also, a definition for "metropolitan transportation plan" was added to this section because the term is used in § 660.105 along with the term "statewide transportation plan," which is also defined in this regulation in § 660.103.

Section 660.105 Planning and Route Designation

Comment: Several of the SHAs expressed the need for clarification of who provides transportation planning, FS resource planning, and management systems information to the States and MPOs for incorporation into the MPOs and transportation improvement programs (TIPs).

Response: Some minor wording changes were made to paragraph (a) of this section to reflect the fact that the FS will provide resource planning and related transportation information to the "appropriate" MPO in accordance with part 450 of this title. This clarification was needed because there are numerous MPOs within some States and the FS should direct the information only to the MPO needing the information.

Comment: Two of the SHAs felt that paragraph (b) should be clarified to delineate the reporting responsibilities for management information systems. One felt the final rule should specify that the State would be responsible for pavement, bridge, and safety management systems where the FH is also a State highway and that cities and counties would be responsible for those management systems where FHs are under city or county jurisdiction. The FS would then be responsible for those

management systems on all other applicable roads.

Response: Title 23, U.S.C., 303 requires the States to develop and implement systems for managing highway pavements of Federal-aid highways (pavement management systems), bridges on and off Federal-aid highways (bridge management systems), and highway safety for all public roads (safety management systems). The results of bridge management systems and safety management systems on all FHs and results of pavement management systems for FHs on Federal-aid highways are to be provided by the SHAs for consideration in the development of programs under § 660.109 of this part. The FHWA will provide appropriate pavement management results for FHs which are not Federal-aid highways. The last two sentences in paragraph (b) were reworded to clarify these procedures and be more in concert with 23 U.S.C. 204(a).

Comment: Two SHAs pointed out the inappropriate reference to the "Federal-aid system" in paragraph (b) when describing who reports pavement management systems results for FHs.

Response: The language of the final rule was revised to refer to "forest highways which are not Federal-aid highways" rather than to "forest highways off the Federal-aid system."

Comment: One commenter recommended that paragraph (c)(1) be clarified by adding the word "forest" before the word "roads" to be more consistent with previous definitions and to clarify candidate roads for nomination. This would clarify the fact that the SHA and the FS will nominate "forest" roads, not just any roads, for FH designation. The FH definition also references forest roads.

Response: Paragraph (c)(1) was revised to make this clarification.

Comment: One commenter suggested that the order of the three criteria for designating FHs in paragraph (d)(1) should be revised to add greater emphasis to the serving of access needs of the NFS.

Response: This comment was accepted. The order of the three items was revised.

Section 660.107 Allocations

Comment: One commenter noted the restrictiveness of the NPRM in that it limits the funding of the allocated portion of the Public Lands Highway Program exclusively to FHs. The commenter further pointed out that the 1991 ISTEA amended 23 U.S.C. 202 by striking the subsection that dealt with FHs as a part of the Public Lands

Highway Program with the result that, according to the commenter, one-third of the allocated program may be spent on highways other than FHs. Under this broader definition of Public Lands Highways, the States would have the flexibility to spend the allocated portion of PLH funds on all kinds of highways such as the Bureau of Land Management roads and even Indian Reservation "Roads. The "equal consideration" language of the ISTEA, in the commenter's view, would allow for at least half of the allocated funds to be spent on such roads while the NPRM language restricts the allocated portion to FHs only.

Response: The conference report on ISTEA states that "Sixty-six percent of the public lands highway account shall be allocated to the Forest Service regional offices for use in 41 States based on the FH criteria. The remaining 34 percent shall be allocated by the Secretary based on national competition for other forest or public lands highways." (H.R. Conf. Rep. No. 404, 102d Cong., 1st Sess. 331 (1991).) Therefore, the interpretation of 23 U.S.C. 202(b) is as follows:

1. Thirty-four percent of the public lands highway funds shall be allocated in a discretionary manner, giving preference to States that contain at least 3 percent of the total public lands in the nation.

2. Sixty-six percent of the public lands highway funds are to be allocated to the FS Regions in accordance with section 134 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (Pub. L. 100-17, 101 Stat. 132, 173). Section 134 pertained to the allocation of FH funds, which is part of the Public Lands Highway category. Therefore, the language of this section was not changed.

Comment: Two of the SHAs took exception to the fact that this section requires the allocation of Public Lands Highway Funds by FS Region, citing an apparent inconsistency with section 134 of the STURAA which allocates "for expenditure in each State." It was suggested that, for some States which have more than one FS Region, allocation by FS Region potentially creates difficulties, such as competition or conflicts between States, and that FH funds should continue to be allocated as outlined in the STURAA. Also, because the ISTEA requires that all FS projects be included in each State's "Statewide Transportation Improvement Program" (STIP), allocation of funds by State would make it easier for each State to project available funding and projects for inclusion in its STIP.

Response: The NPRM may have given the appearance that the allocation method is being changed. Actually, the NPRM proposed to continue with the same FH allocation method which has been in existence since FY 85. If FH funds were to be allocated to the States, 34 States would have their "hold harmless" funds reduced by an aggregate total of approximately \$90 million per year (based on FY 94 allocation amounts). This represents nearly 85 percent of the total FY 94 FH funds allocation. The regulation will continue with the allocation in its present form.

Comment: One commenter suggested that the word "elements," used in the NPRM to state that the allocation of funds for FHs uses values based on relative transportation needs of the various elements of the NFS, should be replaced with the word "resources." The commenter pointed out that the word "element" is used in the definition of renewable resources and could be construed to limit allocations based on renewable resources only. The commenter also believes the term "resources" was defined to include both renewable and nonrenewable resources and is more appropriate to use in defining the allocation process.

Response: This wording was carried forward from the previous wording of the existing regulation. However, the sentence was clarified by deleting the entire phrase "the various elements of," thereby eliminating the need for referring to either "resources" or "elements." It now refers only to "using values based on relative transportation needs of the NFS."

Section 660.109 Program Development

Comment: One commenter proposed that a seventh FH project selection criterion should be added to the existing six criteria in paragraph (a) of this section. The new criterion, which would read: "The results for forest highways from the pavement, bridge, and safety management systems" is needed to comply with § 660.105(b) of this part, which discusses the management systems required under 23 U.S.C. 134 and 135. It would also have to be consistent with any changes made in 23 U.S.C. 105.

Response: Because management systems provide input to transportation planning and the TIP, this seventh criterion was added to the final rule as worded above.

Comment: One of the SHAs noted that the NPRM, in paragraph (a), stated that: "The FHWA will arrange and conduct a conference with the FS and the State Highway Agency (SHA) to jointly select

the projects which will be included in the programs. * * * The commenter stated that cooperators (agencies) with jurisdiction over the FHs under consideration should be included in this conference to enhance the regional planning aspect for these projects.

Response: Under current procedures, the State represents the interests of the cooperators. The program meetings are always open to interested cooperators who may wish to attend. The States may invite cooperators to the meetings, if they wish. Thus, there is no need to change the wording of the NPRM.

Comment: The previous commenter also called attention to paragraph (a) of the NPRM which stated that the FS and the SHA will "jointly select the projects which will be included in the programs for the current fiscal year and at least the next 4 years." The commenter recommended that, since the projects selected will ultimately be added to the STIP, the planning and selection of FH projects should cover the same timeframe as the STIP.

Response: Generally, at least 5 years are needed to identify early environmental and other preliminary engineering required to ensure meeting the schedule to advance a project to construction. The proposed FH timeframe is consistent with this since the TIP generally shows 3 years of the 5-year FH program. Thus, there is no need to change the wording of the NPRM.

Comment: One commenter requested that, in paragraph (b) of this section, the term "recommended," as used in the first sentence, "The recommended program will be prepared by the FHWA and concurred in by the FS and the SHA," should be replaced with the term "selected." This would more accurately reflect the current procedure, as stated in paragraph (a), that the FHWA, the FS, and the SHA will "jointly select the projects," not just recommend them. One of the SHAs felt the second sentence should be revised to read, "The FHWA will approve the program only when there is concurrence by the FS and the SHA." Otherwise, the FHWA could conceivably approve the program without waiting for concurrence by the other two agencies.

Response: A review of this section indicated that the wording of the NPRM may still create some confusion, even with the recommended word changes, because the first two sentences of paragraph (b) state that "The recommended program will be prepared by the FHWA and concurred in by the FS and the SHA" and that "The FHWA will approve the program." This would make it appear that the FHWA simply

prepares and approves its own program. Consequently, the wording of the first sentence of this paragraph was revised to read: "The recommended program will be prepared and approved by the FHWA with concurrence by the FS and the SHA." The second sentence was deleted.

Comment: One commenter pointed out that the term "incorporate," as used in the third sentence of NPRM paragraph (b), which states that "the SHA shall advise any other cooperators in the State of the projects included in the final program and shall incorporate the approved program into the STIP," seems vague. It appears to imply that the approved FH program is independent of the regional and statewide STIP planning requirements of the ISTEA. The commenter felt that, although this may be the correct way to handle a program of this nature, the process required to "incorporate" the final program into the STIP should be clarified.

Response: This sentence was clarified by adding the following phrase to the end of the sentence: "And shall include the approved program in the State's process for development of the STIP."

Section 660.111 Agreements

Comment: One commenter felt that the 41 statewide FH agreements currently in effect between the FHWA and the States (including Puerto Rico) should be updated and made into tri-party agreements with the FHWA, the FS, and the SHA. This would perpetuate the "partnership" spirit of the ISTEA and facilitate cooperation among the three agencies. It would also eliminate separate agreements between the FS and the SHA and between the FHWA and the SHA in each State. The wording of this section should be revised by inserting the words "the Forest Service" where necessary, such as after the word "FHWA" in paragraph (a), to include the FS as a signatory agency to the agreements.

Response: Because there are some overall FH procedures that not only involve the SHAs, but the FS as well, tri-party agreements among the FHWA, the FS, and the SHA will be a requirement in the final rule. Because the FHWA and the FS already have separate two-party FH program agreements for all 40 States, plus Puerto Rico, and because the FHWA does not want to delay the FH program until all new tri-party agreements are executed, the first sentence of this section of the NPRM was revised to delete the phrase "prior to the expenditure of any funds by the FHWA in the State."

Section 660.112 Project Development

Comment: One commenter suggested that, in the first sentence of paragraph (a), the phrase "or a public authority" should be added after the words "Projects will be administered by the FHWA." This would acknowledge that the FS may, in some cases, administer the design and construction of FH projects. The same commenter also suggested adding the phrase "and procedures documented in the statewide agreement" to the end of the sentence to allow for items included in statewide agreements to supplement Federal-aid procedures, where appropriate.

Response: Because the FS wants to be able to administer FH projects, this sentence was reworded to add the words "or the FS" instead of "or a public authority." Also, the phrase "and procedures documented in the statewide agreement" was added to the end of the sentence. This will allow the parties to determine the procedures to be followed in a State.

Section 660.113 Construction

Comment: One commenter suggested that the words "a public authority" be substituted for "cooperator" in paragraph (b) of this section. This would allow the FS to perform construction, if appropriate. Cooperators would still be included since they are, by definition, a public authority.

Response: Because other public authorities that might potentially be involved in a project would also be cooperators, the word "cooperator" was kept in the sentence in paragraph (b). However, by adding the words "the FS" after FHWA, the FS will be explicitly allowed to perform construction, if appropriate. Also, paragraph (c), which deals with final acceptance of the project, was revised to clarify the intent. The word "construction" was retained in the language to differentiate acceptance of the construction work (for the purpose of releasing the contractor) from that of acceptance of the entire project, including any extra work required to resolve noncontractor-related matters.

Section 660.115 Maintenance

Comment: In dealing with the same issue discussed in the previous section, as to what constitutes final acceptance of a project, it was suggested by one commenter that the word "construction" be deleted to avoid confusion.

Response: The term "construction" is not incorrect in the context of this paragraph, because it describes the type

of acceptance being made. However, the entire sentence was reworded to clarify and minimize possible confusion. By referencing § 660.113(c), which includes the word "construction," the meaning of the term "construction acceptance" was retained.

Section 660.117 Funding, Records and Accounting

Comment: One commenter suggested deleting the phrase "and the SHAs" from paragraph (e).

Response: Because the term "cooperators" includes SHAs, the phrase was considered redundant and, therefore, deleted.

Comment: One commenter suggested adding the word "Generally" at the beginning of the sentence in paragraph (f) to allow for those special cases where cash is not obtained in advance of construction procurement.

Response: Adding the word "generally" to the sentence makes the requirement too much less restrictive. Instead, the following phrase was added to the end of the last sentence: "Unless otherwise specified in a project agreement." Also, the word "shall" was changed to "should" to allow more flexibility.

Rulemaking Analyses and Notices; Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not major within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal; therefore, a full regulatory evaluation is not required. This rule merely requires the States and Federal agencies to conform to the requirements of the ISTEA. The requirements are basically incremental to what the States and Federal agencies are required to do under the new ISTEA provisions, such as incorporating new planning provisions, including metropolitan and statewide transportation plan requirements; and establishing management systems provisions, including highway safety, bridges on and off Federal-aid highways, and highway pavements.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on

a substantial number of small entities. The revised regulation will not directly affect small businesses because the regulation applies only to Federal agency, State, and local government transportation programs. However, a minor positive secondary effect may result from the employment of small businesses, such as engineering consultant firms, to implement some of the planning and management systems required by the ISTEA.

Executive Order 12612 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 660

Forest highways, Highways and roads, Public lands highways.

In consideration of the foregoing, the FHWA is amending chapter 1 of title 23, Code of Federal Regulations, part 660, subpart A as set forth below.

Issued on: June 6, 1994.

Rodney E. Slater,
Federal Highway Administrator.

PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

1. Part 660, subpart A is revised to read as follows:

Subpart A—Forest Highways

Sec.

- 660.101 Purpose.
- 660.103 Definitions.
- 660.105 Planning and route designation.
- 660.107 Allocations.
- 660.109 Program development.
- 660.111 Agreements.
- 660.112 Project development.
- 660.113 Construction.
- 660.115 Maintenance.
- 660.117 Funding, records and accounting.

Authority: 16 U.S.C. 1608-1610; 23 U.S.C. 101, 202, 204, and 315; 49 CFR 1.48.

Subpart A—Forest Highways

§ 660.101 Purpose.

The purpose of this subpart is to implement the Forest Highway (FH) Program which enhances local, regional, and national benefits of FHs funded under the public lands highway category of the coordinated Federal Lands Highway Program. As provided in 23 U.S.C. 202, 203, and 204, the program, developed in cooperation with State and local agencies, provides safe and adequate transportation access to and through National Forest System (NFS) lands for visitors, recreationists, resource users, and others which is not met by other transportation programs. Forest highways assist rural and community economic development and promote tourism and travel.

§ 660.103 Definitions.

In addition to the definitions in 23 U.S.C. 101(a), the following apply to this subpart:

Cooperator means a non-Federal public authority which has jurisdiction and maintenance responsibility for a FH.

Forest highway means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

Forest road means a road wholly or partly within, or adjacent to, and serving the NFS and which is necessary for the protection, administration, and utilization of the NFS and the use and development of its resources.

Jurisdiction means the legal right or authority to control, operate, regulate use of, maintain, or cause to be maintained, a transportation facility, through ownership or delegated authority. The authority to construct or

maintain such a facility may be derived from fee title, easement, written authorization, or permit from a Federal agency, or some similar method.

Metropolitan Planning Organization (MPO) means that organization designated as the forum for cooperative transportation decisionmaking pursuant to the provisions of part 450 of this title.

Metropolitan Transportation Plan means the official intermodal transportation plan that is developed and adopted through the metropolitan transportation planning process for the metropolitan planning area.

National Forest System means lands and facilities administered by the Forest Service (FS), U.S. Department of Agriculture, as set forth in the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended (16 U.S.C. 1601 note, 1600-1614).

Open to public travel means except during scheduled periods, extreme weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

Public authority means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

Public lands highway means: (1) A forest road under the jurisdiction of and maintained by a public authority and open to public travel or (2) any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.

Public road means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Renewable resources means those elements within the scope of responsibilities and authorities of the FS as defined in the Forest and Rangeland Renewable Resource Planning Act of August 17, 1974 (88 Stat. 476) as amended by the National Forest Management Act of October 22, 1976 (90 Stat. 2949; 16 U.S.C. 1600-1614) such as recreation, wilderness, wildlife and fish, range, timber, land, water, and human and community development.

Resources means those renewable resources defined above, plus other nonrenewable resources such as minerals, oil, and gas which are included in the FS's planning and land management processes.

Statewide transportation plan means the official transportation plan that is:

(1) Intermodal in scope, including bicycle and pedestrian features, (2) addresses at least a 20-year planning horizon, and (3) covers the entire State pursuant to the provisions of part 450 of this title.

§ 660.105 Planning and route designation.

(a) The FS will provide resource planning and related transportation information to the appropriate MPO and/or State Highway Agency (SHA) for use in developing metropolitan and statewide transportation plans pursuant to the provisions of part 450 of this title. Cooperators shall provide various planning (23 U.S.C. 134 and 135) information to the Federal Highway Administration (FHWA) for coordination with the FS.

(b) The management systems required under 23 U.S.C. 303 shall fulfill the requirement in 23 U.S.C. 204(a) regarding the establishment and implementation of pavement, bridge, and safety management systems for FHs. The results of bridge management systems and safety management systems on all FHs and results of pavement management systems for FHs on Federal-aid highways are to be provided by the SHAs for consideration in the development of programs under § 660.109 of this part. The FHWA will provide appropriate pavement management results for FHs which are not Federal-aid highways.

(c) The FHWA, in consultation with the FS, the SHA, and other cooperators where appropriate, will designate FHs.

(1) The SHA and the FS will nominate forest roads for FH designation.

(2) The SHA will represent the interests of all cooperators. All other agencies shall send their proposals for FHs to the SHA.

(d) A FH will meet the following criteria:

(1) Generally, it is under the jurisdiction of a public authority and open to public travel, or a cooperator has agreed, in writing, to assume jurisdiction of the facility and to keep the road open to public travel once improvements are made.

(2) It provides a connection between adequate and safe public roads and the resources of the NFS which are essential to the local, regional, or national economy, and/or the communities, shipping points, or markets which depend upon those resources.

(3) It serves:

(i) Traffic of which a preponderance is generated by use of the NFS and its resources; or

(ii) NFS-generated traffic volumes that have a substantial impact on roadway design and construction; or

(iii) Other local needs such as schools, mail delivery, commercial supply, and access to private property within the NFS.

§ 660.107 Allocations.

On October 1 of each fiscal year, the FHWA will allocate 66 percent of Public Lands Highway funds, by FS Region, for FHs using values based on relative transportation needs of the NFS, after deducting such sums as deemed necessary for the administrative requirements of the FHWA and the FS; the necessary costs of FH planning studies; and the FH share of costs for approved Federal Lands Coordinated Technology Implementation Program studies.

§ 660.109 Program development.

(a) The FHWA will arrange and conduct a conference with the FS and the SHA to jointly select the projects which will be included in the programs for the current fiscal year and at least the next 4 years. Projects included in each year's program will be selected considering the following criteria:

(1) The development, utilization, protection, and administration of the NFS and its resources;

(2) The enhancement of economic development at the local, regional, and national level, including tourism and recreational travel;

(3) The continuity of the transportation network serving the NFS and its dependent communities;

(4) The mobility of the users of the transportation network and the goods and services provided;

(5) The improvement of the transportation network for economy of operation and maintenance and the safety of its users;

(6) The protection and enhancement of the rural environment associated with the NFS and its resources; and

(7) The results for FHs from the pavement, bridge, and safety management systems.

(b) The recommended program will be prepared and approved by the FHWA with concurrence by the FS and the SHA. Following approval, the SHA shall advise any other cooperators in the State of the projects included in the final program and shall include the approved program in the State's process for development of the Statewide Transportation Improvement Program. For projects located in metropolitan areas, the FHWA and the SHA will work with the MPO to incorporate the approved program into the MPO's Transportation Improvement Program.

§ 660.111 Agreements.

(a) A statewide FH agreement shall be executed among the FHWA, the FS, and each SHA. This agreement shall set forth the responsibilities of each party, including that of adherence to the applicable provisions of Federal and State statutes and regulations.

(b) The design and construction of FH projects will be administered by the FHWA unless otherwise provided for in an agreement approved under this subpart.

(c) A project agreement shall be entered into between the FHWA and the cooperator involved under one or more of the following conditions:

(1) A cooperator's funds are to be made available for the project or any portion of the project;

(2) Federal funds are to be made available to a cooperator for any work;

(3) Special circumstances exist which make a project agreement necessary for payment purposes or to clarify any aspect of the project; or

(4) It is necessary to document jurisdiction and maintenance responsibility.

§ 660.112 Project development.

(a) Projects to be administered by the FHWA or the FS will be developed in accordance with FHWA procedures for the Federal Lands Highway Program. Projects to be administered by a cooperator shall be developed in accordance with Federal-aid procedures and procedures documented in the statewide agreement.

(b) The FH projects shall be designed in accordance with part 625 of this chapter or those criteria specifically approved by the FHWA for a particular project.

§ 660.113 Construction.

(a) No construction shall be undertaken on any FH project until plans, specifications, and estimates have been concurred in by the cooperator(s) and the FS, and approved in accordance with procedures contained in the statewide FH agreement.

(b) The construction of FHs will be performed by the contract method, unless construction by the FHWA, the FS, or a cooperator on its own account is warranted under 23 U.S.C. 204(e).

(c) Prior to final construction acceptance by the contracting authority, the project shall be inspected by the cooperator, the FS, and the FHWA to identify and resolve any mutual concerns.

§ 660.115 Maintenance.

The cooperator having jurisdiction over a FH shall, upon acceptance of the

project in accordance with § 660.113(c), assume operation responsibilities and maintain, or cause to be maintained, any project constructed under this subpart.

§ 660.117 Funding, records and accounting.

(a) The Federal share of funding for eligible FH projects may be any amount up to and including 100 percent. A cooperator may participate in the cost of project development and construction, but participation shall not be required.

(b) Funds for FHs may be used for:

- (1) Planning;
- (2) Federal Lands Highway research;
- (3) Preliminary and construction engineering; and
- (4) Construction.

(c) Funds for FHs may be made available for the following transportation-related improvement purposes which are generally part of a transportation construction project:

- (1) Transportation planning for tourism and recreational travel;
- (2) Adjacent vehicular parking areas;
- (3) Interpretive signage;
- (4) Acquisition of necessary scenic easements and scenic or historic sites;
- (5) Provisions for pedestrians and bicycles;

(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities; and

(7) Other appropriate public road facilities as approved by the FHWA.

(d) Use of FH funds for right-of-way acquisition shall be subject to specific approval by the FHWA.

(e) Cooperators which administer construction of FH projects shall maintain their FH records according to 49 CFR part 18.

(f) Funds provided to the FHWA by a cooperator should be received in advance of construction procurement unless otherwise specified in a project agreement.

[FR Doc. 94-14224 Filed 6-10-94; 8:45 am]

BILLING CODE 4910-22-P

23 CFR Parts 710, 712, 713, and 720

[FHWA Docket No. 93-7]

RIN 2125-AD09

Removal of Obsolete and Redundant Right-of-Way Requirements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the authority citation in the final rule published on May 16, 1994 at 59 FR 25326. The final rule

related to removal of obsolete and redundant right-of-way requirements.

EFFECTIVE DATE: June 13, 1994.

FOR FURTHER INFORMATION CONTACT:

Gerald B. Saunders, Chief, Operations Division, Office of Right-of-Way, HRW-20, (202) 366-0142; or Reid Alsop, Office of Chief Counsel, HCC-31, (202) 366-1371, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

The FHWA hereby corrects the authority citation of 23 CFR part 713 which was published on Monday, May 16, 1994, on page 25327 in FR Doc. 94-11846 to read as follows:

Authority: 23 U.S.C. 101(a), 142(f), 156, and 315; 42 U.S.C. 4633 and 4651-4655; 23 CFR 1.32; 49 CFR 1.48 (b) and (cc), 18.31 and parts 21 and 24.

Issued on: June 6, 1994.

Theodore A. McConnell,
Chief Counsel.

[FR Doc. 94-14225 Filed 6-10-94; 8:45 am]

BILLING CODE 4910-22-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[PA 19-1-6225; FRL-4890-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Stage II Vapor Recovery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires the use of Stage II vapor recovery at gasoline dispensing facilities in ozone nonattainment areas classified as moderate, serious, or severe in the Commonwealth. The effect of this action is to approve, in a limited fashion, the Pennsylvania regulation requiring Stage II vapor recovery gasoline dispensing facilities (Chapter 129.82) and the associated definition of gasoline dispensing facility in Chapter 121.1. It is also the effect of this action to disapprove, in a limited fashion, Pennsylvania regulation, Chapter 129.82. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This final rule will become effective on July 13, 1994.