area at the Worcester Municipal Airport, Worcester, MA (ORH). Since the air traffic control tower (ATCT) at Worcester does not operate continuously, aircraft operating under instrument flight rules (IFR) to and from Worcester did not have the benefit of weather reports from the airport during the times when the tower is closed. That lack of continuous weather reporting required that the controlled airspace for Worcester could not extend to the surface. Recently, however, an Automated Surface Observation System (ASOS) was commissioned at Worcester, making weather reporting now available continuously. As result, this action is necessary to establish controlled airspace extending from the surface for those aircraft operating to and from Worcester under IFR during the times when the ATCT is closed.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. One comment was received from the National Oceanic and Atmospheric Administration's Charting Division which noted a typographic error in the description of the airspace as published. The FAA has corrected that error. Class E airspace designations for airspace areas extending upward from the surface of the earth in the vicinity of airports are published in paragraph 6002 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at ORH. 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. Therefore this regulation (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 will be so minimal. Since this routine matter will only affect air traffic procedures and air navigation, it is certified that this rule will not have 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. 106(g), 40103, 40113, 40120; E.O. 10854.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Subpart E—Class E Airspace

* * * * *

Paragraph 6002 Class E surface areas extending upward from the surface of the earth.

* * * * *

ANE MA E2 Worcester, MA [New]

Worcester Municipal Airport, MA
(Lat. 42°16′02″N, long. 71°52′32″W)

That airspace extending upward from the surface within a 4.2-mile radius of Worcester Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Burlington, MA, on February 13, 1996.

Eileen Seaman,

Acting Manager, Air Traffic Division, New England Region.

[FR Doc. 96–3863 Filed 2–21–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18 and 113

[T.D. 96–18]

RIN 1515–AB67

Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation in Bond of Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Notice of 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 recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. 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 applicable to aircraft turbine fuel which is withdrawn from a Customs bonded warehouse for certain duty-free use and is commingled with other lots of fuel before being so used.

DATES: Interim rule effective April 8, 1996; comments must be received on or before March 25, 1996.

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

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

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the President of the U.S. signed into law the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057). Title VI of this Act, popularly known as the Customs Modernization Act (the Act) amended certain Customs laws. Section 664 of the Act amended the Customs laws by the insertion of a new section 553a, Tariff Act of 1930 (19 U.S.C. 1553a), and section 665 of the Act amended section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)).

Under the new 19 U.S.C. 1553a, merchandise in Customs custody that is transported by pipeline may be accounted for on a quantitative basis. The term ''merchandise in Customs custody,'' is meant to comprise bonded merchandise (*e.g.*, merchandise which has not been entered for consumption, including merchandise transported in bond, merchandise from a Customs bonded warehouse, or merchandise from a foreign trade zone) (see legislative history for this provision in H.R.Rep.No. 103–361, 103d Cong., 1st Sess., Pt. 1, 150–151 (1993), and S.Rep.No. 103–189, 103d Cong., 1st Sess., 97 (1993)). Section 1553a

provides for the use of the bill of lading or equivalent document of receipt, issued by the pipeline carrier to the shipper and accepted by the consignee, to account for the quantity of merchandise transported and to maintain the identity of that merchandise. Unless Customs has reasonable cause to suspect fraud, the provision authorizes Customs to accept the bill of lading, or equivalent document of receipt, for this purpose. Under 19 U.S.C. 1553a, the shipper, pipeline operator, and consignee are subject to the recordkeeping requirements of sections 508 and 509, Tariff Act of 1930, as amended (19 U.S.C. 1508, 1509).

The background to, and reasons for, the addition of 19 U.S.C. 1553a to the Customs laws are explained in the legislative history for the Act (H.Rep.No. 361, *ibid.*, and S.Rep.No. 189, *ibid.*). Currently, there is no provision in the Customs laws or regulations governing the transportation of bonded merchandise by pipeline. The general provisions currently governing transportation in bond (entry for immediate transportation and entry for transportation and exportation; sections 552 and 553, Tariff Act of 1930, as amended (19 U.S.C. 1552, 1553)), do not authorize the commingling of bonded merchandise with non-bonded merchandise in the transportation. Most merchandise transported by pipeline is commingled and is susceptible to quantitative accounting (see H.Rep.No. 189, *ibid.*). Analogous to the amendment to 19 U.S.C. 1557(a) (discussed below), the new provision permits the effective use of modern fuel transportation systems and will reduce administrative costs and paperwork for the industry and the Government.

Under the amendment to 19 U.S.C. 1557(a), turbine fuel may be withdrawn from a Customs bonded warehouse for use under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), without the payment of duty if an amount equal to the quantity of fuel withdrawn is shown to be used as provided for in section 1309 within 30 days of withdrawal. Under section 1309, in part, articles may be withdrawn from any Customs bonded warehouse free of duty for supplies of foreign or U.S. vessels or aircraft actually engaged in foreign trade or trade between the U.S. and any of its possessions, or between Hawaii and any other part of the U.S. or between Alaska and any other part of the U.S. Section 1309 contains an exception under which the provisions for free withdrawals in that section are not applicable to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the U.S.

Under the amended 19 U.S.C. 1557(a), duties are required to be deposited on turbine fuel which was withdrawn in excess of the quantity shown to have been used under 19 U.S.C. 1309 during the 30-day period following withdrawal of the fuel. Such duties must be deposited by the 40th day after the date of withdrawal of the fuel. Interest on the duties is payable from the date of withdrawal.

The background to, and reasons for, the amendment to 19 U.S.C. 1557(a) are explained in the legislative history for the Act (H.Rep.No. 361, *ibid.*, and S.Rep.No. 189, *ibid.*). According to these reports, the nature of major airport fueling systems is that different lots (bonded, imported, domestic, etc.) of turbine fuel are commingled in a common hydrant system. Under the law and regulations before the amendment of 19 U.S.C. 1557(a), Customs considered withdrawal of fuel from storage tanks at airports into the common hydrant system as withdrawal from bonding. Therefore, in order for such bonded fuel to qualify for the duty-free treatment authorized under 19 U.S.C. 1309, Customs required daily accounting for the commingled bonded fuel.

According to the industry, identifying the turbine fuel which is used for flights qualifying under 19 U.S.C. 1309 and that used for non-qualifying flights at the time that turbine fuel is entered into the common hydrant system is impracticable and, if possible, would result in great administrative expense and excessive paperwork. Alternatively, requiring multiple hydrant systems (for different lots of turbine fuel) is physically impracticable at most airports and would also result in great expense.

According to this legislative history, the amendment to 19 U.S.C. 1557(a) will permit the effective use of modern fueling systems at U.S. airports. It will also permit the intended use of existing law (*i.e.*, 19 U.S.C. 1309) permitting the duty-free withdrawal of supplies for qualifying aircraft. Further, it will substantially reduce administrative costs and paperwork for the industry and administrative costs for the Government.

Because Customs is aware of some confusion regarding the possibility of similar treatment of turbine fuel removed from a foreign trade zone for flights qualifying under 19 U.S.C. 1309, we are noting in this document that there is no provision for foreign trade zones in the Act similar to the amendment to 19 U.S.C. 1557(a) effected by section 665 of the Act. It is true that the legislative history to section 637 of the Act amending the statute governing formal entry (19 U.S.C. 1484) indicates that Congress intended that Customs, in developing regulations for periodic entry, should allow for weekly and monthly entries for merchandise shipments from general purpose foreign trade zones and subzones (see H.Rep.No. 361, *ibid.*, at 136). The amendments effected by section 637 of the Act, however, are general amendments regarding formal entry requirements and procedures, under which amendments to the regulations governing formal entry (see parts 141, 142, and 143) are under consideration. By contrast, the sections of the Act implemented by this document are specific provisions relating to the subject matter of this document, and not to removals of turbine fuel from foreign trade zones. As stated above, no such provision (*i.e.*, specifically governing removal from a foreign trade zone of turbine fuel for use on qualifying flights under 19 U.S.C. 1309) was enacted in the Act. Therefore, because this document is intended to implement the specific provisions effected by sections 664 and 665 of the Act, no specific provision is promulgated in this document providing for periodic entries of turbine fuel removed from a foreign trade zone for use on qualifying flights under 19 U.S.C. 1309. (We do note, however, that the regulations implementing section 664 of the Act may affect turbine fuel removed from a foreign trade zone and transported by pipeline to the location where it may be loaded on qualifying flights under 19 U.S.C. 1309.)

Pipeline Transportation in Bond

The Customs Regulations generally pertaining to the transportation of merchandise in bond are currently found in part 18. These interim regulations implement the new 19 U.S.C. 1553a by the addition to part 18 of a new § 18.31. Generally, this new § 18.31 provides that merchandise may be transported by pipeline under the procedures provided for in part 18, unless otherwise specifically provided. The new § 18.31 provides for the acceptance by Customs of a bill of lading or equivalent document of receipt to account for the quantity of merchandise transported and to maintain the identity of the merchandise, under the circumstances provided in the statute (*i.e.*, the bill of lading or equivalent document of receipt must be issued by the pipeline operator to the shipper and accepted by

the consignee and there must be no reasonable cause for Customs to suspect fraud).

Basically, the new § 18.31 adopts the current procedures for transportation in bond, as applicable to pipeline transportation. That is, generally, merchandise to be transported in bond between ports in the U.S. is delivered to a common carrier, contract carrier, freight forwarder, or private carrier bonded for that purpose. The carrier prepares an in-bond document and takes receipt of the merchandise. The in-bond document (which also serves as the transportation entry or withdrawal), with receipt of the merchandise by the carrier noted thereon, together with a Customs control card or carnet, is used as the in-bond manifest for the merchandise to its port of destination.

Delivery of the merchandise at the port of destination is required within 30 days after the date of receipt by the carrier at the port of origin, or 60 days after such date if the merchandise is transported on board a vessel engaged in the coastwise trade (except for transit air cargo in which case 10 days is given, under § 122.118). Within 2 days of arrival of the merchandise at the port of destination, the delivering carrier is required to report the arrival to Customs by surrendering the in-bond manifest to Customs at that port.

Under its bond, the initial carrier is responsible for any shortage, irregular delivery, or nondelivery at the port of destination or exportation. Specific provision is made for transshipment to one or more other conveyances, diversion to a different port, the different kinds of transportation entry or withdrawal which may be made (*i.e.,* for immediate transportation, exportation, and transportation and exportation), change of the foreign destination of merchandise entered or withdrawn for transportation and exportation, retention of merchandise on the dock, and the splitting of a shipment of merchandise for exportation.

In addition to incorporating these general requirements, the new § 18.31 provides for the inclusion of the bill of lading or equivalent document of receipt with the Customs in-bond document for merchandise to be transported in bond by pipeline. Provided that there are no discrepancies between the bill of lading or equivalent document of receipt and the other documents making up the in-bond manifest for the merchandise, and provided that Customs has no reasonable cause to suspect fraud, the bill of lading or equivalent document of receipt is to be accepted by Customs at the port of destination or exportation as establishing the quantity and identity of the merchandise transported.

In cases in which the initial carrier transfers or transships merchandise to another conveyance or carrier, the new § 18.31 generally adopts the procedures in the current provision for transshipment (§ 18.3). Basically, those procedures require the in-bond document accompanying the merchandise to be presented to Customs at the place of transshipment for execution of a certificate of transfer on the document. The notated document then accompanies the merchandise to its port of destination or exportation. If the merchandise is to be transshipped to more than one conveyance, additional copies of the in-bond document are required.

In addition to these procedures, the new § 18.31 provides that, if a pipeline is the initial carrier, a copy of the bill of lading or equivalent document of receipt shall be delivered to the person in charge of the conveyance to which the merchandise is transferred, and if the merchandise is transferred to more than one conveyance, to the person in charge of each of the conveyances. If the initial carrier is not a pipeline, the new § 18.31 provides for the delivery, along with the in-bond document, of the bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper to the appropriate Customs official at the port of destination or exportation. As is currently provided in § 18.3, the in-bond document will be executed by Customs with the certificate of transfer in either case (*i.e.,* if a pipeline is the initial carrier or if the initial carrier is not a pipeline).

The new § 18.31 also makes it clear, as is currently provided in part 18 (see § 18.8), that the initial carrier is responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries at the port of destination or exportation. As provided in 19 U.S.C. 1553a, the new § 18.31 provides that the shipper, pipeline operator, and consignee are subject to the recordkeeping requirements in 19 U.S.C. 1508 and 19 U.S.C. 1509, as provided in 19 CFR part 162.

To make it clear to the public that the Customs Regulations pertaining to transportation in bond apply to transportation by pipeline, the definition of ''common carrier'' in § 18.1(a)(1) is amended to specifically include a common carrier of merchandise owning or operating a pipeline.

Withdrawal of Fuel From Warehouse

The Customs Regulations pertaining to the withdrawal of merchandise from a Customs bonded warehouse are found in part 144. Under § 144.35, the withdrawal from warehouse of supplies and equipment for vessels and aircraft are provided for in subpart D of part 144 and §§ 10.59 through 10.65. The latter contain specific provisions on the duty-free treatment of supplies for foreign or U.S. vessels and aircraft actually engaged in foreign trade under 19 U.S.C. 1309. Pursuant to § 10.59(d), although the provisions in §§ 10.59 through 10.64 are written in terms of vessels, they are made applicable to aircraft insofar as they may be so applicable. Specific provisions for the withdrawal of fuel as supplies under 19 U.S.C. 1309 for vessels or aircraft are provided in § 10.62.

These interim regulations implement the amendment to 19 U.S.C. 1557(a) by the addition of a new § 10.62b to part 10. Under the new § 10.62b, turbine fuel intended for use as supplies on aircraft under 19 U.S.C. 1309 which is withdrawn from a Customs bonded warehouse is entitled to duty-free treatment under 19 U.S.C. 1309 if an amount equal to or exceeding the quantity of such fuel is established to have been used on aircraft qualifying for duty-free treatment under 19 U.S.C. 1309 within 30 days after the withdrawal of the fuel from the Customs bonded warehouse. For the procedures for such withdrawals, § 10.62b adopts the procedures now provided for in §§ 10.59 through 10.65. Section 10.62b provides that withdrawals under that provision shall be annotated to show the kind of withdrawal.

If less fuel than was withdrawn is used within 30 days of withdrawal on qualifying aircraft, a withdrawal for consumption must be filed and duties must be paid for the excess of fuel withdrawn over that used on qualifying aircraft. The withdrawal for consumption must be filed and the duties must be paid, with interest, by the 40th day after the date of withdrawal of the fuel. Interest is calculated from the date of withdrawal at the rate of interest established under 26 U.S.C. 6621.

The new § 10.62b provides for two alternative ways of establishing use by qualifying aircraft of fuel in an amount equal to or exceeding the quantity of the fuel withdrawn under the provision.

In the first alternative, the person withdrawing the aircraft turbine fuel submits records (*e.g.,* ''uplift'' or refueling tickets) prepared in the normal course of business effecting the transfer

to aircraft of fuel in an amount equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid and objective evidence that the aircraft to which the fuel was transferred were actually used in trade qualifying for the privileges provided in 19 U.S.C. 1309. These records must identify the aircraft to which the fuel is transferred by aircraft company name, flight number, flight origin and destination, and date of flight, or other means of identification satisfactory to Customs.

In the second alternative, the person withdrawing the aircraft turbine fuel files a certification (documentary or electronic) certifying: (1) The intended use under 19 U.S.C. 1309 of all of the fuel withdrawn; (2) the transfer to qualifying aircraft within 30 days of the date of withdrawal from warehouse of an amount of fuel equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid; (3) the use of all aircraft onto which the fuel, which is not entered and on which duties are not paid, was uplifted in trade qualifying for treatment under 19 U.S.C. 1309; and (4) that the person making the certification has evidence (documentary or electronic) available for Customs inspection at a named place which supports each of these statements. Under the second alternative, the person making the certification must promptly provide evidence supporting the claim, including the records described in the other alternative means of establishing use of the fuel on a qualifying aircraft (above), upon request by Customs. The records or certification are required to be submitted to Customs by the 40th day after the date of withdrawal of the fuel unless the fuel was withdrawn under a blanket permit to withdraw, in which case the records or certification are required to be submitted by the 40th day after all of the fuel covered by the blanket permit has been withdrawn.

The new § 10.62b provides for liquidated damages against the person withdrawing turbine fuel under the section, under the provisions of § 113.62, for failure to account for such turbine fuel. Failure to account for such turbine fuel includes: (1) The failure to file, within 40 days from the date of withdrawal, a withdrawal for consumption and pay applicable duty, with interest, on the quantity of fuel withdrawn in excess of the quantity of fuel established to have been used on qualifying aircraft within 30 days of withdrawal; (2) the failure to timely file the evidence or certification, provided for in the new § 10.62b, establishing such use of the fuel which is not entered and on which duties are not paid; or (3) the failure to promptly provide, upon request by Customs, the evidence required to support the claim for treatment under the new § 10.62b. A conforming amendment is made to § 113.62, containing the basic importation and entry bond conditions.

The new § 10.62b provides that ''blanket'' withdrawals, under existing regulations except as specifically provided in the provision, may be used for withdrawals under this provision. Under a blanket withdrawal, all or part of the merchandise entered into a warehouse may be withdrawn, at different times if desired, without further Customs approval (*i.e.,* after approval of the blanket permit) (see 19 CFR 19.6(d)).

Because it is anticipated that blanket withdrawals will be the predominant form of withdrawal under the amended 19 U.S.C. 1557(a) and because of the need for certainty as to the time of withdrawal under the amended 19 U.S.C. 1557(a), we are describing in detail the requirements and procedures for blanket withdrawals under § 10.62b. As noted above, unless otherwise provided in § 10.62b, these procedures are provided for in existing regulations, specific provisions of which are cited in the following description, along with citations to the appropriate paragraphs in the new § 10.62b.

As is true currently under § 10.62, blanket withdrawals under § 10.62b may only be used when all of the turbine fuel in a Customs bonded tank is intended only for loading duty-free as supplies on aircraft qualifying for the privileges provided for in 19 U.S.C. 1309 (§ 10.62(a)). Unlike other blanket withdrawals (see §§ 10.62(a) and 19.6(d)(1)), turbine fuel withdrawn under these blanket withdrawal procedures may be delivered at ports other than the port of withdrawal (§ 10.62b(g)(2)).

Applications for permission for blanket withdrawals under § 10.62b are filed with Customs by the withdrawer on the warehouse entry, or on the warehouse entry/entry summary when used as an entry (§ 10.62b(g)(1)). The warehouse entry or entry/entry summary must be annotated to indicate that permission for blanket withdrawal is sought (§§ 19.6(d)(1) and 10.62b(g)(1)). Customs acceptance of a properly completed application for a blanket permit to withdraw constitutes approval of the blanket permit to withdraw (§ 10.62b(g)(3)).

A copy of the approved blanket permit to withdraw is delivered to the warehouse proprietor after which fuel may be withdrawn under the terms of the permit (§ 10.62b(g)(4)). The blanket permit may be revoked by Customs in favor of individual applications and permits if the permit is found to be used for other purposes or if necessary to protect the revenue or properly enforce any law or regulation administered by Customs (§ 19.6(d)(1)). Withdrawals under an approved blanket permit may be made without any further Customs approval and are documented by the placement in the warehouse proprietor's permit file folder of a copy of a commercially acceptable document of receipt (such as a ''withdrawal ticket'') issued by the warehouse proprietor, identified with a unique alpha-numeric code (§§ 19.6(d)(2) and 10.62b (g)(4) and (g)(5)). These documents of receipt are required to contain the identity of the withdrawer, identity of the warehouse and tank from which the fuel is withdrawn, date of withdrawal, type of merchandise withdrawn, and quantity of merchandise withdrawn (§ 10.62b(g)(5) (i) through (v)).

For blanket withdrawals, the date of withdrawal, for purposes of calculating the 30-day period in which fuel must be used on qualifying aircraft under 19 U.S.C. 1557(a), begins with the date on which physical removal of the fuel from the warehouse commences (§ 10.62b(g)(6)). That is, if removal of fuel begins at 10:00 PM on ''day one'' and is not completed until some time on ''day two'' or later, all of the fuel must be used on qualifying aircraft within 30 days from ''day one'' to qualify for treatment under that provision.

If, within the 30-day period following withdrawal under a blanket permit, less fuel is used on qualifying aircraft than was withdrawn, a withdrawal for consumption must be filed and duties must be paid for the excess of fuel withdrawn over that used on qualifying aircraft. As provided by the amended 19 U.S.C. 1557(a) and these interim regulations (§ 10.62b(e)), the withdrawal for consumption must be filed and the duties must be paid, with interest, by the 40th day after the date of withdrawal of the fuel.

When all of the fuel covered by an entry for which a blanket permit to withdraw was issued has been withdrawn, the warehouse proprietor prepares a blanket permit summary on a copy of Customs Form 7506 or a form on the letterhead of the proprietor, bearing the words ''BLANKET PERMIT SUMMARY'' in capital letters conspicuously printed or stamped in the top margin (§§ 19.6(d)(4) and 10.62b(g)(7)). The blanket permit summary is required to provide an accounting of the disposition of the merchandise covered by the blanket

permit by stating, in summary form, the unique alpha-numeric codes for, and information required on the withdrawal documents, as well as the identity of the warehouse entry to which the withdrawals are attributed (§§ 19.6(d)(4) and 10.62b(g)(7)). The warehouse proprietor is required to certify on the blanket permit summary that the merchandise listed therein was withdrawn in compliance with §§ 10.62, 10.62b, and 19.6(d) (§§ 19.6(d)(4) and 10.62b(g)(8)). The blanket permit summary is placed in the warehouse proprietor's permit file folder and treated as provided in § 19.12, regarding warehouse recordkeeping, storage, and security requirements (§ 19.6(d)(4)).

By the 40th day after all of the fuel covered by the blanket permit has been withdrawn, the person withdrawing aircraft turbine fuel is required to submit to Customs either the records or the evidence provided for in § 10.62b(c) (§ 10.62b(d) and (g)(9)). Discretionary authority is given to the port director to require submission of a summary of these records or evidence, along with the evidence required to establish use of fuel on qualifying aircraft, in electronic form. Such submissions must be in a format compatible with Customs systems (§ 10.62b(g)(9)).

The new § 10.62b provides that the person withdrawing aircraft turbine fuel from warehouse under the provision is subject to the recordkeeping requirements in 19 U.S.C. 1508 and 19 U.S.C. 1509, as provided for in part 162.

Conforming amendments are made to the general provisions for withdrawal under 19 U.S.C. 1309 in §§ 10.60 and 10.62. In the case of the amendment to § 10.60, the amendment concerns the general requirement that supplies to be used at a port other than the port of withdrawal from warehouse must be withdrawn on a withdrawal for transportation in bond. The amendment makes it clear that this general requirement is inapplicable in the case of withdrawals under the new § 10.62b. In the case of the amendment to § 10.62, the amendment alerts the public to the fact that there is an alternative provision for aircraft turbine fuel withdrawn from warehouse, provided for in § 10.62b, to the general procedures and requirements for withdrawal of bunker fuel under 19 U.S.C. 1309.

The interim regulation also promulgates by regulation, in the new § 10.62b, a position taken by Customs in interpretative rulings regarding the commingling in a single hydrant fueling system of aircraft turbine fuel from a Customs bonded warehouse with domestic or other fuel when the fuel from the warehouse is intended for use under 19 U.S.C. 1309. Generally, under these rulings, dated October 20, 1989 (File: 221483), May 8, 1990 (File: 222258), and April 29, 1991 (File: 222914), Customs permitted such commingling if two basic conditions were met. The first of these conditions was that the hydrant system must be physically configured so that once the fuel from the warehouse was introduced or commingled into the single hydrant system, it could not be removed otherwise than by being pumped into aircraft. The second of these conditions was that the commingled fuel must be accounted for on the basis of a 24-hour accounting period (*i.e.*, entry must be made and duty paid for any quantity of the fuel from the warehouse which was introduced into the hydrant system when a like quantity was not loaded on aircraft qualifying for duty-free treatment under 19 U.S.C. 1309 within 24 hours of the introduction of the fuel from the warehouse into the hydrant system). The rulings held that the requirement for accounting on the basis of a 24-hour period meant that the fuel from the warehouse introduced or commingled into the single hydrant system must be loaded onto a qualifying aircraft in the same 24-hour period (defined as a 24 hour period beginning at 12:01 a.m. and ending at 12:00 midnight). The legislative history for the amendment to 19 U.S.C. 1557(a), described above, recognized and confirmed the foregoing Customs interpretations of the then applicable law and regulations.

As stated above, the position taken in these rulings is implemented in the new § 10.62b. Paragraph (a) of that section contains a provision making the position taken in these rulings the general rule. That is, paragraph (a) provides that, unless otherwise provided (the provision for withdrawal from warehouse under the amended 19 U.S.C. 1557(a), provided for in the other paragraphs of § 10.62b, does, of course, otherwise provide), aircraft turbine fuel withdrawn from a Customs bonded warehouse for use under 19 U.S.C. 1309 may be commingled with domestic or other aircraft turbine fuel only upon approval by the authorized Customs official. Customs approval for such commingling would have to be obtained under the appropriate provisions in the Customs Regulations (subpart D of part 144).

Under paragraph (a) of § 10.62b, the authorized Customs official may approve such commingling if the fueling system in which the commingling occurs contains physical safeguards preventing the possible unauthorized entry into the Customs territory of the fuel. The commingled fuel must be accounted for in the same 24-hour period in which it was commingled and must be exported or used under 19 U.S.C. 1309 within that 24-hour period or entered or withdrawn for consumption, with duty deposited, as required under the appropriate regulations (see part 144). As noted above, the specific provision for the duty-free withdrawal of aircraft turbine fuel from a Customs bonded warehouse if the fuel is used on an aircraft qualifying for duty-free treatment under 19 U.S.C. 1309, provided for in the amendment to 19 U.S.C. 1557(a) and paragraphs (b) through (h) of § 10.62b, is an exception from the above-described general rule.

Delayed Effective Date and Public Comment Requirements

The agency intends that these interim regulations will 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(b)(B) and 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 reducing administrative costs and paperwork pursuant to specific statutory authority. These interim regulations are intended to implement Congressional intent embodied in sections 553a and 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1553a and 1557(a)), and specifically stated in the legislative history to those provisions, as described above.

Furthermore, existing rights and obligations are not changed otherwise than as authorized by the new statutory provisions. The agency believes that the affected public wants these new statutory provisions to become effective as soon as possible so that the public can 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 (*i.e.*, because the new provisions are permissive, not restrictive). 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 for public participation in the rulemaking process.

In the spirit of the APA, the agency is soliciting public comment regarding both the substance of these interim regulations and Customs decision to promulgate these regulations on an interim basis with the effective date delayed for that period of time necessary to review any relevant comments. 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. All substantive comments received timely will be considered and will be addressed in the final rule document.

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, D.C.

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

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of the public comments, approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 2507) under control number 1515–0209.

The collection of information in this regulation is in § 10.62b. This information is required by Customs to ensure compliance with the statute authorizing the described procedure. This information will be used to verify that turbine fuel withdrawn from a Customs bonded warehouse under 19 U.S.C. 1557(a) is used on aircraft qualifying for duty-free withdrawal of fuel supplies, as required under the law. The likely recordkeepers are businesses.

Estimated total annual reporting and/or recordkeeping burden: 240 hours.

Estimated average annual burden hours per recordkeeper: 12 hours.

Estimated number of respondents and/or recordkeepers: 20.

Estimated annual frequency of responses: 12.

Comments concerning the collection of information and the accuracy of the estimated average annual burden, and suggestions for reducing this burden should be directed to the Office of Management and Budget (OMB), Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Drafting Information

The principal author of this document was Paul G. Hegland, Entry Rulings Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Shipments.

19 CFR Part 18

Bonded transportation, Common carriers, Customs duties and inspection, Exports, Imports.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

Amendments

Title 19, Chapter I, parts 10, 18 and 113 of the Customs Regulations (19 CFR parts 10, 18 and 113) are amended as set forth below:

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

1. The general authority for part 10 continues to read as follows, and specific authority, for new § 10.62b, is added as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

§ 10.62b also issued under 19 U.S.C. 1557;

* * * * *

2. Section 10.60 is amended by revising the first sentence of paragraph (d) to read as follows:

§ 10.60 Forms of withdrawals; bond.

* * * * *

(d) Except as otherwise provided in § 10.62b, relating to withdrawals from warehouse of aircraft turbine fuel to be used within 30 days of such withdrawal as supplies on aircraft under § 309, Tariff Act of 1930, as amended, when the supplies are to be laden at a port other than the port of withdrawal from warehouse, they shall be withdrawn for transportation in bond to the port of lading. * * *

* * * * *

3. Section 10.62 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 10.62 Bunker fuel oil.

(a) *Withdrawal under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309).* Except as otherwise provided in § 10.62b, relating to withdrawals from warehouse of aircraft

turbine fuel to be used within 30 days of such withdrawal as supplies on aircraft under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), when all the bunker fuel oil in a Customs bonded tank is intended only for lading duty free as supplies on vessels under section 309 at the port where the tank is located, delivery of the oil, by Customs bonded carrier, cartman, or lighterman (including bonded pipelines), under withdrawals on Customs Form 7506, either single or blanket, may be made without the presence of a Customs officer. * * *

* * * * *

4. Section 10.62b is added to read as follows:

§ 10.62b Aircraft turbine fuel.

(a) *General.* Unless otherwise provided, aircraft turbine fuel withdrawn from a Customs bonded warehouse for use under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), may be commingled with domestic or other aircraft turbine fuel after such withdrawal only if such commingling is approved by the appropriate Customs official for the port where the commingling occurs. The appropriate Customs official may approve such commingling if the fueling system in which the commingling will occur contains adequate physical safeguards to prevent the possible unauthorized entry into the Customs territory of the bonded fuel. Such commingled fuel must be accounted for in the same 24-hour period in which it was commingled and must be—

(1) Exported within that 24-hour period;

(2) Used under section 309 within that 24-hour period; or

(3) Entered or withdrawn for consumption, with duty deposited, as required under the applicable regulations (see part 144 of this chapter).

(b) *Duty-free withdrawal from warehouse of aircraft turbine fuel under section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)).* Turbine fuel intended for use as supplies on aircraft under section 309, Tariff Act of 1930, as amended, and withdrawn from a Customs bonded warehouse shall be entitled to the privileges provided for in section 309 if an amount equal to or exceeding the quantity of such fuel is established, as provided for in paragraph (c) of this section, to have been used on aircraft qualifying for the privileges provided for in section 309 within 30 days after the withdrawal of the fuel from the Customs bonded warehouse. Withdrawal of aircraft turbine fuel under this paragraph shall be in accordance with the procedures in §§ 10.59 through 10.64, unless otherwise provided in this section. Withdrawals under this paragraph shall be annotated with the term ''Withdrawal under 19 CFR 10.62b(b)''.

(c) *Establishment of use of fuel by qualifying aircraft.*

(1) The person withdrawing aircraft turbine fuel under paragraph (b) of this section shall establish that an aircraft qualifying for the privileges provided for in section 309, Tariff Act of 1930, as amended, used fuel in an amount equal to or exceeding the quantity of the fuel withdrawn which is not entered and upon which duties are not paid by submitting to Customs, within the time provided in paragraph (d) of this section, either—

(i) Records prepared in the normal course of business effecting the transfer to identified (*e.g.*, by aircraft company name, flight number, flight origin and destination, and date of flight) aircraft of fuel in an amount equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid and objective evidence that the aircraft to which the fuel was transferred were actually used in trade qualifying for the privileges provided in section 309, Tariff Act of 1930, as amended; or

(ii) A certification (documentary or electronic) that:

(A) All of the fuel withdrawn was intended for use on aircraft entitled to the privileges provided for in section 309;

(B) Within 30 days of the date of withdrawal from warehouse, an amount of fuel equal to or exceeding the quantity of the fuel withdrawn which is not entered and on which duties are not paid was transferred as supplies to aircraft entitled to the privileges provided for in section 309;

(C) All of the aircraft, to which the fuel which is not entered and on which duties are not paid was transferred as supplies, were used in a trade provided for in section 309; and

(D) The person making the certification possesses evidence (documentary or electronic) available for Customs inspection at a named place which supports each of the above statements.

(2) Upon request by Customs, the person who submits the certification provided for in paragraph (c)(1) of this section shall promptly provide the evidence required to support the claim for treatment under this section (including the records described in § 10.62b(c)(1)(i)) and §§ 10.62 and 19.6(d) and each of the statements in the certification.

(d) *Time for establishment of use of fuel by qualifying aircraft.* The person withdrawing aircraft turbine fuel under paragraph (b) of this section shall submit the records or certification provided for in paragraph (c) of this section by the 40th day after the date of withdrawal of the fuel unless the fuel was withdrawn under a blanket withdrawal under paragraph (g) of this section. If the fuel was withdrawn under a blanket withdrawal, the person withdrawing aircraft turbine fuel under this section shall submit the records or certification provided for in paragraph (c) of this section by the 40th day after all of the fuel covered by the blanket permit to withdraw has been withdrawn.

(e) *Treatment of turbine fuel withdrawn but not used on qualifying aircraft within 30 days.* If turbine fuel is withdrawn from a Customs bonded warehouse under paragraph (b) of this section but fuel in an amount less than the quantity withdrawn is established to have been used within 30 days of the date of withdrawal from warehouse on aircraft qualifying for the privileges provided for in section 309, Tariff Act of 1930, as amended, a withdrawal for consumption shall be filed and duties shall be deposited for the excess of fuel so withdrawn over that used on aircraft so qualifying. Such withdrawal shall be filed and such duties shall be deposited by the 40th day after the date of withdrawal of the fuel in accordance with the procedures in § 144.38 of this chapter. Interest shall be payable and deposited with such duties, calculated from the date of withdrawal at the rate of interest established under 26 U.S.C. 6621.

(f) *Liquidated damages.* Failure to account for turbine fuel withdrawn under paragraphs (b) through (h) of this section shall result in liquidated damages against the person withdrawing the turbine fuel, as provided for under § 113.62 of this chapter. Such failure to account for turbine fuel includes:

(1) The failure to timely file the withdrawal for consumption and payment of duty, with interest, on the quantity of fuel so withdrawn in excess of the quantity of fuel established to have been used on qualifying aircraft within 30 days of withdrawal, as provided for in paragraph (e) of this section;

(2) The failure to timely file the evidence or certification establishing such use of the fuel which is not entered and on which duties are not paid, as provided for in paragraph (c) of this section; or

(3) The failure to promptly provide the evidence required to support the claim for treatment under paragraph (b) of this section, upon request by Customs, as provided for in paragraph (c)(2) of this section.

(g) *Blanket withdrawals.* Blanket withdrawals, as provided for in §§ 10.62 and 19.6(d), may be used for withdrawals from warehouse under section 557(a), Tariff Act of 1930, as amended, and paragraphs (b) through (h) of this section, under the procedures provided in §§ 10.62 and 19.6(d) except that—

(1) Application by the withdrawer for a blanket permit to withdraw shall be on the warehouse entry, or on the warehouse entry/entry summary when used as an entry, annotated with the words ''Some or all of the merchandise will be withdrawn under blanket permit per §§ 10.62, 10.62b, and 19.6(d).'';

(2) Turbine fuel withdrawn under a blanket permit as authorized in this paragraph may be delivered at a port other than the port of withdrawal;

(3) Customs acceptance of a properly completed application for a blanket permit to withdraw, on the warehouse entry or warehouse entry/entry summary, will constitute approval of the blanket permit to withdraw;

(4) A copy of the approved blanket permit to withdraw will be delivered to the warehouse proprietor, whereupon fuel may be withdrawn under the terms of the blanket permit;

(5) The withdrawal document to be placed in the proprietor's permit file folder (see § 19.6(d)(2)) will be a commercially acceptable document of receipt (such as a ''withdrawal ticket'') issued by the warehouse proprietor, identified with a unique alpha-numeric code and containing the following information:

(i) Identity of withdrawer;

(ii) Identity of warehouse and tank from which fuel is withdrawn;

(iii) Date of withdrawal;

(iv) Type of merchandise withdrawn; and

(v) Quantity of merchandise withdrawn.

(6) The date of withdrawal, for purposes of calculating the 30-day period in which fuel must be used on qualifying aircraft under this section, shall be the date on which physical removal of the fuel from the warehouse commences;

(7) The blanket permit summary prepared by the proprietor as provided for in § 19.6(d)(4) shall be prepared when all of the fuel covered by the blanket permit has been withdrawn and shall account for all merchandise withdrawn under the blanket permit, as required by § 19.6(d)(4), by stating, in summary form, the unique alpha-numeric codes and information required in paragraph (g)(5) of this section, as well as the identity of the warehouse entry to which the withdrawal is attributed;

(8) The certification on the blanket permit summary (see § 19.6(d)(4)) shall be that the merchandise listed thereunder was withdrawn in compliance with §§ 10.62, 10.62b, and 19.6(d); and

(9) The person withdrawing aircraft turbine fuel under these blanket procedures shall submit the records or certification provided for in § 10.62b(c) by the 40th day after all of the fuel covered by the blanket permit has been withdrawn (see § 10.62b(d)). At the discretion of the port director for the port where blanket withdrawal was approved, submission of the records and evidence required to establish use of the fuel on qualifying aircraft may be required to be submitted electronically, in a format compatible with Customs electronic record-keeping systems.

(h) *Recordkeeping.* The person withdrawing aircraft turbine fuel from warehouse under this section is subject to the recordkeeping requirements in 19 U.S.C. 1508 and 1509, as provided for in part 162 of this chapter.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The general authority for part 18 is revised to read, and specific authority for new § 18.31 is added, as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, HTSUS), 1551, 1552, 1553, 1624;

* * * * *

§ 18.31 also issued under 19 U.S.C. 1553a.

2. Section 18.1 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

§ 18.1 Carriers, application to bond.

(a)(1) * * * For the purposes of this section, the term ''common carrier'' means a common carrier of merchandise owning or operating a railroad, steamship, pipeline, or other transportation line or route. * * *

* * * * *

3. Part 18 is amended by adding a center heading and new § 18.31, following § 18.27, to read as follows:

Merchandise Transported by Pipeline

§ 18.31 Pipeline transportation of bonded merchandise.

(a) *General.* Merchandise may be transported by pipeline under the procedures in this part, as appropriate and unless otherwise specifically provided for in this section.

(b) *Bill of lading to account for merchandise.* Unless Customs has reasonable cause to suspect fraud, Customs shall accept a bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper and accepted by the consignee to account for the quantity of merchandise transported by pipeline and to maintain the identity of the merchandise.

(c) *Procedures when pipeline is only carrier.* When a pipeline is the only carrier of bonded merchandise and there is no transfer to another carrier, the bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper shall be included with, and made a part of, the Customs in-bond document (see § 18.2(b)). If there are no discrepancies between the bill of lading or equivalent document of receipt and the other documents making up the in-bond manifest for the merchandise, and provided that Customs has no reasonable cause to suspect fraud, the bill of lading or equivalent document of receipt shall be accepted by Customs at the port of destination or exportation (see §§ 18.2(d) and 18.7) as establishing the quantity and identity of the merchandise transported. The pipeline operator shall be responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries at the port of destination or exportation (see § 18.8).

(d) *Procedures when there is more than one carrier (i.e., transfer of the merchandise).*

(1) *Pipeline as initial carrier.* When a pipeline is the initial carrier of bonded merchandise and the merchandise is transferred to another conveyance (either a different mode of transportation or a pipeline operated by another operator), the procedures in § 18.3 and paragraph (c) of this section shall be followed, except that—

(i) When the merchandise is to be transferred to one conveyance, a copy of the bill of lading or equivalent document issued by the pipeline operator to the shipper shall be delivered to the person in charge of the conveyance for delivery, along with the in-bond document, to the appropriate Customs official at the port of destination or exportation; or

(ii) When the merchandise is to be transferred to more than one conveyance, a copy of the bill of lading or equivalent document issued by the pipeline operator to the shipper shall be delivered to the person in charge of each additional conveyance, along with the two additional copies of the in-bond

document, for delivery to the appropriate Customs official at the port of destination or exportation.

(2) *Transfer to pipeline from initial carrier other than a pipeline.* When bonded merchandise initially transported by a carrier other than a pipeline is transferred to a pipeline, the procedures in § 18.3 and paragraph (c) of this section shall be followed, except that the bill of lading or other equivalent document of receipt issued by the pipeline operator to the shipper shall be delivered, along with the in-bond document, to the appropriate Customs officer at the port of destination or exportation.

(3) *Initial carrier liable for discrepancies.* In the case of either paragraph (d)(1) or (d)(2) of this section, the initial carrier shall be responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries, at the port of destination or exportation (see § 18.8).

(e) *Recordkeeping.* The shipper, pipeline operator, and consignee are subject to the recordkeeping requirements in 19 U.S.C. 1508 and 1509, as provided for in part 162 of this chapter.

PART 113—CUSTOMS BONDS

1. The general authority for part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

2. Section 113.62 is amended by revising the paragraph (b) introductory text to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(b) *Agreement to Make or Complete Entry.* If all or part of imported merchandise is released before entry under the provisions of the special delivery permit procedures under 19 U.S.C. 1448(b), released before completion of the entry under 19 U.S.C. 1484(a), or withdrawn from warehouse under 19 U.S.C. 1557(a) (see § 10.62b of this chapter), the principal agrees to file within the time and in the manner prescribed by law and regulation, documentation to enable Customs to:

* * *

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: October 4, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–3905 Filed 2–21–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AG22

Veterans Education: Implementation of the Veterans' Benefits Act of 1992, the National Defense Authorization Act for Fiscal Year 1993, and the National Defense Authorization Act for Fiscal Year 1994

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance and educational benefits regulations of the Department of Veterans Affairs (VA). It makes changes concerning eligibility requirements for educational assistance and benefits, rates of payment for educational assistance, measurement of training time, approval of various types of courses, and educational death benefits. These changes restate statutory requirements and set forth VA's statutory interpretations.

DATES: This final rule is effective February 22, 1996. However, the restatements of statute and VA's statutory interpretations contained in this final rule will be applied retroactively from the effective dates of the statutory provisions. For more information concerning the application of statutes and statutory interpretations, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: Regulations concerning VA-administered educational assistance and educational benefits are contained in 38 CFR Part 21. The Veterans' Benefits Act of 1992 (Pub. L. 102–568) amends educational assistance provisions under the Montgomery GI Bill—Active Duty and amends other provisions that affect work-study under the Survivors' and Dependents' Educational Assistance program. The National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484) and the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160) also amend provisions concerning educational assistance under the Montgomery GI Bill—Active Duty. This document contains a number of changes to the regulations which merely reflect certain changes made by these public laws. These changes to the regulations are as follows.

Under Pub. L. 102–568, the limit on the amount of money that VA can pay in advance on a work-study contract has been changed. Formerly, that limit was 40 percent of the total amount payable under the contract. Now the limit is the lesser of 40 percent of the total amount payable under the contract or 50 times the applicable minimum hourly wage in effect on the date the contract is signed. Changes are made to 38 CFR 21.3145 and 21.7145 to reflect these statutory provisions.

Pub. L. 102–484 includes the Service Members Occupational Conversion and Training Act (SMOCTA) (sec. 4481 through 4497, Pub. L. 102–484), which forbids receipt of educational assistance under any of the education programs administered by VA when the veteran, servicemember, or other eligible person is participating in a job training program under SMOCTA. Revisions are made to 38 CFR 21.4131, 21.4135, 21.7131, and 21.7135 to reflect these statutory provisions.

Pub. L. 102–568 provides for later ending dates when the veteran dies during the period covered by an advance payment of educational assistance. Prior to the effective date of Pub. L. 102–568, educational assistance was terminated effective the date the veteran died. However, Pub. L. 102–568 provides that in the event of a death, the effective date of the termination will be the last date covered by the advance payment. Revisions are made to 38 CFR 21.4135 and 21.7135 to reflect these statutory provisions.

Pub. L. 102–568 prohibits State approving agencies from approving for VA educational assistance a course of education that includes nonaccredited independent study. It also prohibits VA from approving an enrollment in an independent study course unless the course is accredited and leads to a standard college degree. Revisions are made to 38 CFR 21.4252, 21.7120, 21.7122, 21.7220 and 21.7222 to reflect these statutory changes. However, under Pub. L. 102–568 these prohibitions do not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of Pub. L. 102–568 (October 29, 1992) who remains ''continuously * * * enrolled'' and otherwise meets the requirements for eligibility for such assistance in effect on October 29, 1992. Revisions are made to §§ 21.4252 and 21.7120 to restate these statutory provisions. Also, the following definition of ''continuously enrolled'' is added to 38 CFR 21.7020 to interpret what constitutes ''continuously enrolled'':