informing, educating, and advising them on compliance with the regulatory requirements. The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local or Tribal governments or the private sector.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Because today's proposed rule directly affects only the Reynolds Gum Springs, Arkansas, facility, EPA finds that the rule does not impose any enforceable duty upon State, local, and Tribal governments. Thus, today's rule is not subject to the requirements of sections 203 and 205 of the UMRA.

List of Subjects in 40 CFR Part 261

Environmental protections, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Section 2002(a), 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: November 18, 1997.

Robert E. Hannesschlager,

Acting Director, Multimedia Planning and Permitting Division.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922 and 6938.

Appendix IX to Part 261 Table 2—[Amended]

2. Appendix IX to part 261, Table 2—Wastes is amended by removing the entry ''Reynolds Metals Company, Gum Springs, Arkansas'' and its related text.

* * * * *

[FR Doc. 97–31404 Filed 11–28–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 97–23]

Simplification of Service Contract Filing Requirements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its rules to discontinue the requirement that service contracts be filed in double envelopes. This should reduce duplication and Commission and carrier costs, as well as facilitate the submission of service contract filings at the Commission.

EFFECTIVE DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION:

I. Background

The rules of the Federal Maritime Commission (''Commission''), at 46 CFR 514.7(g)(1)(i) and (ii), require service contracts to be filed in double envelopes. This requirement originated with the Commission's initial service contract rules, when all filings were in paper form and was intended to facilitate the separation of service contracts from their associated essential terms filings. Service contract essential terms are now filed electronically in the Commission's Automated Tariff Filing and Information system (''ATFI''). As a consequence, the double-envelope procedure has become superfluous.

The Commission received 38,747 service contract filings during fiscal year 1997. Each filing is now required to be ''filed in single copy contained in a double envelope.'' This proposal will thus reduce by half the number of envelopes that must be filed with and handled by the Commission's staff. This will result in cost savings and processing efficiencies for the industry and Commission.

Because the removal of this obsolete requirement eliminates, rather than creates, a regulatory requirement, this revision is being promulgated as a final rule effective upon publication in the **Federal Register**.

This final rule does not impose any additional reporting or recordkeeping requirements from those which were previously approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995, as amended. (OMB Control No. 3072–0055, expires May 31, 1998.)

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this final rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

The subject final rule is not a major rule under the Small Business Regulatory Flexibility Act (5 U.S.C. 804(2)) because it will not result in an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises.

List of Subjects in 46 CFR Part 514

Administrative practice and procedure, Antitrust, Automatic data processing, Cargo vessels, Confidential business information, Contracts, Exports, Freight, Freight forwarders, Imports, Maritime carriers, Penalties, Rates and fares, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553 and sections 3, 8, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1702, 1707 and 1716), the Federal Maritime Commission amends Part 514 of Title 46 of the Code of Federal Regulations as follows:

PART 514—[AMENDED]

1. The authority citation for Part 514 continues to read:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721, and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

2. Section 514.7 is amended by revising paragraph (g)(1) to read as follows:

§ 514.7 Service contracts in foreign commerce.

* * * * *

(g) * * *

(1) *Service contracts.* Within ten (10) days of the electronic filing of essential terms under § 514.17, a true and complete copy of the related contract(s) shall be submitted in form and content as provided by this section and § 514.17, in single copy contained in an envelope, which contains no other material, addressed to: ''Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, DC 20573.'' The envelope shall state ''This Envelope Contains a Confidential Service Contract.'' If multiple service contracts are filed in an envelope, the pages of each individual contract should be fastened together. The top of each page of a filed service contract shall be stamped ''Confidential.''

* * * * *

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–31320 Filed 11–28–97; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 219 and 240

[Docket No. RSOR–6, Notice No. 45; Docket No. RSOR–9, Notice No. 9]

RIN 2130–AA63

Alcohol/Drug Regulations: Technical Amendments; Qualifications for Locomotive Engineers: Correction

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA issues a final rule containing technical amendments to its regulations on control of alcohol and drug use (49 CFR part 219), and amends its regulations on locomotive engineer qualifications (49 CFR part 240) to delete an outdated cross-reference to part 219 in part 240.

EFFECTIVE DATE: This rule is effective December 31, 1997.

ADDRESSES: Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Docket No. RSOR–6, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Room 8201, Washington, DC, 20590.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager (RRS–11), Office of Safety, FRA, Washington, DC 20590 (Telephone: (202) 632–3378) or Patricia V. Sun, Trial Attorney (RCC–11), Office of Chief Counsel, FRA, Washington, DC 20590 (Telephone: (202) 632–3183).

SUPPLEMENTARY INFORMATION:

In addition to the technical amendments discussed below, this rule makes several editorial changes to correct typographical errors.

Section by Section Analysis

Section 219.5 Definitions

FRA is deleting the definition of ''Field Manual'' for the reasons discussed below.

Section 219.19 Field Manual

FRA is removing and reserving this section and deleting all references to its alcohol and drug testing field manual (including, as mentioned above, the definition in § 219.5 and a reference in § 219.205(c)(1)), since this 1985 publication is obsolete. At present, FRA has no plans to issue an updated manual.

Section 219.101 Alcohol and Drug Use Prohibited

Paragraph (a)(5)

FRA is adding a new paragraph to codify a 1995 interpretation which made clear that a railroad is prohibited from using an FRA alcohol test result that indicates an alcohol concentration below 0.02 as a basis for federal or company discipline.

Section 40.63(e) of the Department of Transportation's (DOT or the Department) alcohol testing procedures (contained in 49 CFR part 40 (part 40), which is incorporated by reference into part 219) states that in any case where the employee's breath alcohol concentration is less than 0.02, no further testing is authorized under Federal regulations. This is because levels below .02 are considered to be negative results (i.e., not persuasive evidence of alcohol use).

Testing conducted under federal authority is a search subject to the protections of the Constitution of the United States. For this reason, actions taken pursuant to federal rules must be supported by forensically sound evidence. After considering the limits of current technology, DOT determined that .02 was the lowest alcohol concentration measurement at which it could be confident in the result's accuracy. (This is analogous to the drug testing cutoff levels established by the Department of Health and Human Services (DHHS)).

FRA recognizes that railroads retain independent authority to test and discipline on their own. In § 219.1, FRA states that railroads may adopt more stringent standards under their own authority *that are not inconsistent with Part 219,* and in § 219.101(c), FRA accommodates longstanding industry zero tolerance policies by allowing railroads to impose an absolute prohibition on the presence of alcohol or drugs in the body fluids of their employees.

This does not mean, however, that railroads can use a federal test result below 0.02 as a basis for discipline, even under their own authority. For FRA purposes, if a federal test result indicates an alcohol concentration below .02, the test is negative and is not evidence of alcohol abuse. Therefore, a railroad cannot use the federal test result either as evidence in a company proceeding or as a basis for subsequent testing under company authority.

A railroad can take further action only if it has an independent basis for doing so. For example, if a supervisor reasonably suspects alcohol use because the employee smells of alcohol, and the federal test result is below .02, the railroad may use the supervisor's observations as an independent basis for further company testing. Before starting a separate company testing process, the railroad must ensure that the employee understands that the completed federal test was negative, and that no federal violation occurred. The railroad may then conduct a company test (for which use of an FRA or DOT form is *not* authorized), after making the employee aware that any subsequent actions, such as future testing or discipline, are taken under railroad authority only.

Prohibiting use of federal test results below .02 does not interfere with railroad authority. A railroad remains free to test or take further action *if* it has an independent basis for doing so. Commingling federal authority with an employer testing program is impermissible, however, since the employee must always know in advance what his or her procedures, rights and consequences are.

If an employee's test result is between .02 and .039, however, a railroad may take more stringent disciplinary action than the eight hour removal from covered service required under Part 219. In the preamble to its final rule on alcohol testing [February 15, 1994, at 59 FR 7452], FRA stated that ''* * * the bifurcated system [which imposes different consequences for results of .04 or above BAC than for results between .02 and .039] does not preempt a railroad's independent authority to test and discipline under Rule G. As stated in § 219.1, railroads retain the latitude to adopt more stringent standards under their own authority. For instance, railroads retain their authority to discipline an employee under company policy for a .02–.039 test result conducted under FRA authority or to discipline an employee found to have violated Rule G based solely on supervisory observations.''

The crucial distinction is that while a .02–.039 test result does not necessarily indicate impairment, it *does* indicate the presence of alcohol in the employee's system. Thus, a railroad may use a federal test result of .02–.039 as the basis for more stringent discipline under its own independent authority. A separate company test is therefore not required to impose discipline in addition to the federally mandated minimum of eight hours removal from