changes to [sections __ of] this contract proposed by a party, a non-party or the Federal Energy Regulatory Commission acting *sua sponte* shall be the ''public interest'' standard of review set forth in *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.,* 350 U.S. 332 (1956) and *Federal Power Commission* v. *Sierra Pacific Power Co.,* 350 U.S. 348 (1956) (the *''Mobile-Sierra''* doctrine).

(c) Any market-based power sales contract that does not contain either of the provisions in paragraph (b) of this section will be construed by the Commission as allowing a ''just and reasonable'' standard of review for any proposed changes to the contract.

Note: The following concurring commissioners' statements will not appear in the Code of Federal Regulations.

MASSEY, Commissioner, *concurring:*

I support this order's objective of clarifying standards under which contracts may be modified and allowing parties to market-based power sales contracts greater certainty in the application of the *Mobile-Sierra* doctrine. Nevertheless, I write separately because I believe the Proposed Policy Statement would have been stronger if it had recognized explicitly the potential use of market power to extract an agreement to a *Mobile-Sierra* clause in a contract. As recognized by the DC Circuit Court of Appeals in *Atlantic City Electric Company:*[1]

> As we have held, the purpose of the *Mobile-Sierra* doctrine is to preserve the benefits of the parties' bargain as reflected in the contract, assuming there was no reason to question what transpired at the contract formation stage. (Citing *Town of Norwood* v. *FERC*[2])

The *Mobile-Sierra* doctrine assumes that contracts are entered into voluntarily. Thus, a seller may not dictate, through the exercise of market power, the standard of review specified in a contract. I believe the Proposed Policy Statement should have explicitly addressed this concern. If a party to a contract would not have agreed to the insertion of the *Mobile-Sierra* clause absent the exercise of market power, then the Commission should allow that party to advocate the use of the just and reasonable standard.

With these thoughts in mind, I concur with today's order.

William L. Massey,

Commissioner.

BROWNELL, Commissioner, and BREATHITT, Commissioner, concurring:

1. We are voting in favor of this proposal for two reasons. First, we support providing the market with greater certainty concerning the Commission's review of market-based rate contracts. Second, we support changing the Commission's existing policy of not applying the *Mobile-Sierra* public interest standard when modifying market-based rate contracts on its own motion. However, we wonder if the proposal has gotten things backward on when the public interest standard is triggered.

2. Under the proposed policy, the Commission will not apply the *Mobile-Sierra* public interest standard when reviewing proposed changes to a market-based rate contract (regardless of whether the changes are sought by the seller, the buyer, a third party, or the Commission itself) unless explicit language dictating that standard is included in the contract. We would have preferred to propose a policy of applying the public interest standard unless there is explicit language in the contract that invites the Commission to apply a lower standard.

3. Competitive markets rely on investors to provide the capital needed to build generation. Investors will not participate in a market in which disgruntled buyers are allowed to break their contracts, at least not without charging a significant risk premium—a cost that will ultimately be borne by consumers. Therefore, as a policy matter, we think it might be preferable to hold everyone to the same high standard when seeking changes to market-based rate contracts, absent contract language indicating that the parties to the contract have agreed to a lower standard.

4. Moreover, we see nothing in the *Mobile-Sierra* case law that bars the Commission from adopting such a policy. Faced with balancing the sanctity of contracts against the Commission's statutory duty to review the justness and reasonableness of rates, the Supreme Court in *Mobile, Sierra,* and subsequent cases has ruled that, absent contractual language to the contrary, the Commission may not approve a seller's unilateral contract modification under § 205 of the Federal Power Act unless the modification is necessary for the public interest.[1] The case law on when the public interest standard applies in a § 206 proceeding, be it brought by the buyer, a third party, or by the Commission acting *sua sponte,* is much less clear. However, at least two courts have applied the public interest standard in § 206 proceedings notwithstanding the absence of contractual language specifying that standard.[2]

5. Therefore, we urge interested parties to comment on whether, as both a legal and a policy matter, the ''default'' in the policy statement should be reversed.

Nora Mead Brownell.

Linda Key Breathitt.

[FR Doc. 02–19915 Filed 8–7–02; 8:45 am]

BILLING CODE 6717–01–P

[1] Atlantic City Electric Company v. FERC, Docket No. 97–1097 (issued July 12, 2002), mimeo at 20.

[2] 587 F.2d 1306, 1312 (D.C. Cir. 1978).

[1] *See* United Gas Pipe Line Co. v. Mobile Gas Serv. Corp., 350 U.S. 332 (1956); FPC v. Sierra Pacific Power, 350 U.S. 348 (1956); and United Gas Pipeline Co. v. Memphis Light, Gas and Water Div., 358 U.S. 103 (1958).

[2] *See* Texaco Inc. v. FERC, 148 F.3d 1091, 1096 (D.C. Cir. 1998) (stating that prior decisions ''did not suggest that the parties' failure to explicitly foreclose the Commission's authority to replace rates [under § 206] would leave it intact. The law is quite clear: absent contractual language susceptible to the construction that the rate may be altered while the contract subsists, the *Mobile-Sierra* doctrine applies.''); Boston Edison Co. v. FERC, 233 F.3d 60, 67 (1st Cir. 2000) (''[T]he specification of a rate or formula by itself implicates *Mobile-Sierra* (unless the parties negate the implication).'').

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR parts 4 and 113

RIN 1515–AD11

Presentation of Vessel Cargo Declaration to Customs Before Cargo is Laden Aboard Vessel at Foreign Port for Transport to the United States

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

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to require the advance and accurate presentation of manifest information prior to lading at the foreign port and to encourage the electronic presentation of such information in advance. The document also proposes to allow a non-vessel operating common carrier (NVOCC) having an International Carrier Bond to electronically present this cargo manifest information to Customs. This information is required in advance and is urgently needed in order to enable Customs to evaluate the risk of smuggling before goods are loaded on vessels for importation into the United States, including the risk of smuggling of weapons of mass destruction through the use of oceangoing cargo containers, while, at the same time, enabling Customs to facilitate the prompt release of

legitimate cargo following its arrival in the United States. Failure to provide the required information in the time period prescribed may result in the assessment of civil monetary penalties or claims for liquidated damages.

DATES: Comments must be received on or before September 9, 2002.

ADDRESSES: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street, NW., Washington, DC, during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: For legal matters: Larry L. Burton, Office of Regulations and Rulings, (202–572–8724).

For operational matters: Kimberly Nott, Office of Field Operations, (202–927–0042).

SUPPLEMENTARY INFORMATION:

Background

The Customs laws impose certain requirements upon vessels that will arrive in the United States to discharge their cargo. In particular, vessels destined for the United States must comply with 19 U.S.C. 1431, which requires that every vessel bound for the United States and required to make entry under 19 U.S.C. 1434 have a manifest that meets the requirements that are prescribed by regulation. To this end, under 19 U.S.C. 1431(d), Customs may by regulation specify the form for, and the information and data that must be contained in, the vessel manifest, as well as the manner of production for, and the delivery or electronic transmittal of, the vessel manifest.

Currently, § 4.7, Customs Regulations (19 CFR 4.7), requires: that the master of every vessel arriving in the United States and required to make entry have on board the vessel a manifest in accordance with 19 U.S.C. 1431 and § 4.7; and that an original and one copy of the manifest must be ready for production upon demand and must be delivered to the first Customs officer who demands the manifest. Sections 4.7(a) and 4.7a, Customs Regulations (19 CFR 4.7a), set forth the documentary and informational requirements that constitute the vessel manifest.

Pursuant to § 4.7(a), the cargo declaration (Customs Form 1302 or its electronic equivalent) is one of the documents that comprises a vessel manifest. The cargo declaration, or cargo manifest, must list all the inward foreign cargo on board the vessel regardless of the intended U.S. port of discharge of the cargo (§ 4.7a(c)(1)).

Furthermore, 19 U.S.C. 1448 provides, in pertinent part, that no merchandise may be unladen from a vessel which is required to make entry under section 1434 until Customs has issued a permit for the unlading. In addition, under section 1448, Customs possesses a reasonable measure of regulatory discretion as to whether, and under what circumstances and conditions, to issue a permit to unlade incoming cargo from a vessel arriving in the United States. Section 4.30, Customs Regulations (19 CFR 4.30), lists the requirements and conditions under which Customs may issue a permit to unlade foreign merchandise from a vessel arriving in the United States.

Finally, 19 U.S.C. 1436(a)(1) and (a)(4) provide that it is unlawful to fail to comply with sections 1431, 1433 or 1434 or any regulation prescribed under any of those statutory authorities. Further, 19 U.S.C. 1436(a)(2) states that it is unlawful to present or transmit, electronically or otherwise, any forged, altered or false document, paper, data or manifest to the Customs Service under 19 U.S.C. 1431, 1433(d) or 1434. Under section 1436(b), the master of a vessel who commits any such violation is liable for a civil penalty of $5,000 for the first violation and $10,000 for each subsequent violation and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

Proposed Rulemaking; Advance Presentation of Vessel Cargo Manifest to Customs; Required Information

Customs proposes in this document to amend § 4.7 to provide that, pursuant to 19 U.S.C. 1431(d), for any vessel subject to entry under 19 U.S.C. 1434 upon its arrival in the United States, Customs must receive the vessel's cargo manifest (declaration) from the carrier 24 hours before the related cargo is laden aboard the vessel at the foreign port.

Necessity for Advance Presentation of Vessel Cargo Manifest to Customs

The United States Customs Service recently launched the Container Security Initiative (''CSI''), a program that will protect the United States and a significant part of the global trading system—containerized shipping—from terrorists and the implements of terrorism, including weapons of mass destruction. With CSI, the United States is entering into partnerships with other governments to target and inspect high-risk sea containers in foreign ports, before they are shipped to the United States. This will not only deter terrorists from attempting to use the global shipping system for their destructive purposes, it will also substantially reduce the risk of weapons of mass destruction from ever reaching our shores.

CSI, which provides improved security without slowing the flow of legitimate trade, is an integral part of the President's homeland security strategy. The initiative also has the full support of the G–8 and the World Customs Organization.

The Customs Service successfully piloted a version of CSI in Canada and already has agreements with the governments of the Netherlands, Belgium, and France to implement CSI at the ports of Rotterdam, Antwerp, and Le Havre. U.S. Customs Service inspectors will be stationed at those ports shortly. Agreements with other governments are imminent, and the Customs Service anticipates continued, rapid growth of CSI over the next several weeks and months.

An essential element of CSI is advance transmission of vessel cargo manifest information to Customs. Analysis of the manifest information prior to lading will enable overseas Customs personnel to identify high-risk containers effectively and efficiently, while ensuring prompt processing of lower risk containers. Because of CSI's rapid growth and critical role in homeland security, it is necessary that Customs begin receiving the advance manifest information required for CSI implementation as soon as possible.

Non-Vessel Operating Common Carriers (NVOCCs)

In the event that a non-vessel operating common carrier (NVOCC) delivers cargo to a vessel carrier for lading aboard the vessel at the foreign port, the NVOCC, if licensed by the Federal Maritime Commission and in possession of an International Carrier Bond executed pursuant to part 113 of the Customs Regulations (19 CFR part 113), containing the provisions of § 113.64 (19 CFR 113.64), may electronically transmit the corresponding required cargo manifest information directly to Customs through the Automated Manifest System (AMS) 24 or more hours before the related cargo is laden aboard the vessel at the foreign port; in the alternative, the NVOCC would need to fully disclose and present the required manifest information for the related cargo to the vessel carrier which would be required to present this information to Customs. For purposes of this rulemaking, a non-

vessel operating common carrier (NVOCC) means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

This document proposes to amend the conditions of the International Carrier Bond (19 CFR 113.64) to add a new provision which would recognize the status of an NVOCC as a manifesting party and would obligate any NVOCC having such a bond and electing to provide cargo manifest information to Customs electronically under § 4.7 and 4.7a to transmit such information to Customs in an accurate and timely manner. Breach of these obligations would result in liquidated damages against the NVOCC.

Cargo Declarations; Information Required

Additionally, Customs proposes in this rulemaking to amend § 4.7a to require that the cargo declaration, on Customs Form 1302 or a Customs-approved electronic equivalent, separately list all foreign cargo not destined for the United States that remains on board the vessel (''FROB'') as well as any empty containers that are on the vessel. Moreover, in addition to the cargo declaration information required for cargo destined for the United States in § 4.7a(c)(1)–(c)(3), § 4.7a would be amended in this proposed rule to add a new paragraph (c)(4) to provide that the cargo declaration, either on Customs Form 1302, or on a separate sheet or Customs-approved electronic equivalent, must state:

(1) The foreign port of departure;

(2) The carrier (SCAC) code;

(3) The voyage number;

(4) The date of scheduled arrival in the first U.S. port in Customs territory;

(5) The numbers and quantities from the carrier's ocean bills of lading, either master or house, as applicable;

(6) The first port of receipt of the cargo by the inward foreign ocean carrier;

(7) A precise description (or the Harmonized Tariff Schedule (HTS)) numbers under which the cargo is classified if that information is received from the shipper) and weight of the cargo or, for a sealed container, the shipper's declared description and weight of the cargo. Generic descriptions, specifically such as ''FAK'' (''freight of all kinds''), ''general cargo'', and ''STC'' (''said to contain'') are not acceptable;

(8) The shipper's name and address, or an identification number, from all bills of lading;

(9) The consignee's name and address, or the owner's or owners' representative's name and address, or an identification number, from all bills of lading;

(10) Notice that actual boarded quantities are not equal to quantities as indicated on the relevant bills of lading (except that a carrier is not required to verify boarded quantities of cargo in sealed containers);

(11) The vessel name, national flag, and vessel number;

(12) The foreign port where the cargo is laden on board;

(13) Hazardous material indicator;

(14) Container number (for containerized shipments); and

(15) The seal number affixed to the container.

As explained above in the context of the CSI, these expanded information requirements are necessary to enable Customs to evaluate the risk of smuggling before goods are loaded onto vessels for importation into the United States, including the risk of smuggling of weapons of mass destruction. This information is required in advance for Customs to assess the risks presented by shipments for smuggling while providing expedited treatment of cargo upon arrival.

The failure by the master to present or transmit accurate manifest data in the time period prescribed by regulation and the presentation or transmission by the master of any false, forged or altered document, paper, manifest or data to Customs may result in the assessment of monetary penalties under the provisions of 19 U.S.C. 1436(b). If an NVOCC having an International Carrier Bond elects to transmit such data electronically to Customs and fails to do so in the time period prescribed by regulation or transmits any false, forged or altered document, paper, manifest or data to Customs, the NVOCC may be liable for the payment of liquidated damages for breach of the condition of the International Carrier Bond.

Issuance of Permit to Unlade Cargo

If the carrier does not present cargo declaration information to Customs prior to the lading of the cargo aboard the vessel at the foreign port, Customs may, in addition to assessment of civil monetary penalties, delay issuance of a permit to unlade the entire vessel until all required information is received. Customs may also decline to issue a permit to unlade the specific cargo for which a declaration is not received 24 hours before lading in a foreign port. Such a delay in the issuance of a permit to unlade or refusal of a permit to unlade would be appropriate because Customs cannot determine whether or when to permit the unlading of cargo until it has received timely, complete, and accurate declaration information and has reviewed the cargo manifest to gauge the potential risk associated with the importation of that cargo.

Preliminary Entry

It is also proposed that § 4.8 be amended to make it clear that the granting of preliminary entry by Customs will be conditioned upon the electronic submission of the Cargo Declaration (Customs Form (CF) 1302), as well as the provision to Customs either electronically or in paper form of all other forms required by § 4.7.

Comments

Before adopting this proposal, consideration will be given to any written comments that are timely submitted to Customs. Only a 30-day comment period is being provided for in this notice because of the urgent necessity for Customs to receive advance manifest information to strengthen the CSI and to prevent the risk of smuggling of weapons of mass destruction. Customs specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), at the U.S. Customs Service, 799 9th Street, NW., Washington, DC during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Regulatory Flexibility Act and Executive Order 12866

The advance presentation to Customs of vessel manifest information for cargo destined for the United States as prescribed under the proposed amendments is intended to expedite the release of incoming cargo while, at the same time, ensuring maritime safety and protecting national security. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments would not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor do they meet the criteria

for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information in this document is contained in § 4.7a(c)(4). Under § 4.7a(c)(4), the information would be required and used to determine the security conditions under which cargo was maintained prior to and following its delivery for lading aboard a vessel for shipment to the United States. The likely respondents and/or recordkeepers are business or other for-profit institutions.

The collection of information encompassed within this proposed rule has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Estimated annual reporting and/or recordkeeping burden: 66,700 hours.

Estimated average annual burden per respondent/recordkeeper: 6.67 hours.

Estimated number of respondents and/or recordkeepers: 10,000.

Estimated annual frequency of responses: 100.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, would be revised to add an appropriate reference to 4.7a(c)(4), upon adoption of the proposal as a final rule.

List of Subjects

19 CFR Part 4

Administrative practice and procedure, Arrival, Cargo vessels, Customs duties and inspection, Declarations, Entry, Freight, Harbors, Hazardous substances, Imports, Inspection, Landing, Maritime carriers, Merchandise, Reporting and recordkeeping requirements, Shipping, Vessels.

19 CFR Part 113

Bonds, Customs duties and inspection, Exports, Foreign commerce and trade statistics, Freight, Imports, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

It is proposed to amend parts 4 and 113, Customs Regulations (19 CFR parts 4 and 113), as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the relevant specific authority citations would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.7 also issued under 19 U.S.C. 1581(a); 46 U.S.C. App. 883a, 883b;

Section 4.7a also issued under 19 U.S.C. 1498, 1584;

Section 4.8 also issued under 19 U.S.C. 1448, 1486;

* * * * *

Section 4.30 also issued under 19 U.S.C. 288, 1446, 1448, 1450–1454, 1490;

* * * * *

2. It is proposed to amend § 4.7 by revising its section heading; by redesignating the existing text of paragraph (b) as paragraph (b)(1) and revising the first sentence of newly redesignated paragraph (b)(1); and by adding new paragraphs (b)(2), (b)(3), and (e) to read as follows:

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance filing of cargo declaration.

* * * * *

(b)(1) In addition to any Cargo Declaration that has been filed in advance as prescribed in paragraph (b)(2) of this section, the original and one copy of the manifest must be ready for production on demand. * * *

(2) For any vessel subject to paragraph (a) of this section, Customs must receive from the carrier the vessel's Cargo Declaration, Customs Form 1302, or a Customs-approved electronic equivalent, 24 hours before such cargo is laden aboard the vessel at the foreign port (see § 4.30(n)(1)). Participants in the Automated Manifest System (AMS) are required to provide the vessel's cargo declaration electronically.

(3)(i) Where a non-vessel operating common carrier (NVOCC), as defined in paragraph (b)(3)(ii) of this section, delivers cargo to the vessel carrier for lading aboard the vessel at the foreign port, the NVOCC, if licensed by the Federal Maritime Commission and in possession of an International Carrier Bond containing the provisions of § 113.64 of this chapter, may electronically transmit the corresponding required cargo manifest information directly to Customs through the Automated Manifest System (AMS) 24 or more hours before the related cargo is laden aboard the vessel at the foreign port (see § 113.64(c) of this chapter); in the alternative, the NVOCC must fully disclose and present the required manifest information for the related cargo to the vessel carrier which is required to present this information to Customs.

(ii) A non-vessel operating common carrier (NVOCC) means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. The term ''non-vessel operating common carrier'' does not include freight forwarders as defined in part 112 of this chapter.

* * * * *

(e) *Failure to provide manifest information; penalties/liquidated damages.* Any master who fails to provide manifest information as required by this section, or who presents or transmits electronically any document required by this section that is forged, altered or false, or who fails to present or transmit the information required by this section in a timely manner, may be liable for civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. In addition, if any non-vessel operating common carrier (NVOCC) as defined in paragraph (b)(3)(ii) of this section elects to transmit cargo manifest information to Customs electronically and fails to do so in the manner and in the time period required by paragraph (b)(3)(i) of this section, or electronically transmits any false, forged or altered document, paper, manifest or

data to Customs, such NVOCC may be liable for the payment of liquidated damages as provided in § 113.64(c) of this chapter.

3. It is proposed to amend § 4.7a by revising the first sentence of paragraph (c)(1), by adding a new paragraph (c)(4), and by adding a new paragraph (f) to read as follows:

§ 4.7a Inward manifest; information required; alternative forms.

* * * * *

(c) *Cargo Declaration.* (1) The Cargo Declaration (Customs Form 1302 or a Customs-approved electronic equivalent) must list all the inward foreign cargo on board the vessel regardless of the U.S. port of discharge, and must separately list any other foreign cargo remaining on board (''FROB'') as well as any empty containers that are on the vessel. * * *

* * * * *

(4) In addition to the cargo manifest information required in paragraphs (c)(1)–(c)(3) of this section, for all inward foreign cargo, the Cargo Declaration, either on Customs Form 1302, or on a separate sheet or Customs-approved electronic equivalent, must state the following:

(i) The foreign port of departure;

(ii) The carrier (SCAC) code;

(iii) The voyage number;

(iv) The date of scheduled arrival in the first U.S. port in Customs territory;

(v) The numbers and quantities from the carrier's ocean bills of lading, either master or house, as applicable;

(vi) The first port of receipt of the cargo by the inward foreign ocean carrier;

(vii) A precise description (or the Harmonized Tariff Schedule (HTS)) numbers under which the cargo is classified if that information is received from the shipper) and weight of the cargo or, for a sealed container, the shipper's declared description and weight of the cargo. Generic descriptions, specifically such as ''FAK'' (''freight of all kinds''), ''general cargo'', and ''STC'' (''said to contain'') are not acceptable;

(viii) The shipper's name and address, or an identification number, from all bills of lading;

(ix) The consignee's name and address, or the owner's or owners' representative's name and address, or an identification number, from all bills of lading;

(x) Notice that actual boarded quantities are not equal to quantities as indicated on the relevant bills of lading (except that a carrier is not required to verify boarded quantities of cargo in sealed containers);

(xi) The vessel name, national flag, and vessel number;

(xii) The foreign port where the cargo is laden on board;

(xiii) Hazardous material indicator;

(xiv) Container number (for containerized shipments); and

(xv) The seal number affixed to the container.

* * * * *

(f) *Failure to provide manifest information; penalties/liquidated damages.* Any master who fails to provide manifest information as required by this section, or who presents or transmits electronically any document required by this section that is forged, altered or false, may be liable for civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. In addition, if any non-vessel operating common carrier (NVOCC) as defined in § 4.7(b)(3)(ii) elects to transmit cargo manifest information to Customs electronically, and fails to do so as required by this section, or transmits electronically any document required by this section that is forged, altered or false, such NVOCC may be liable for liquidated damages as provided in § 113.64(c) of this chapter.

4. It is proposed to amend § 4.8 by revising the second and third sentences of paragraph (b) to read as follows:

§ 4.8 Preliminary entry.

* * * * *

(b) *Requirements and conditions.* * * * The granting of preliminary vessel entry by Customs at or subsequent to arrival of the vessel, is conditioned upon the presentation to and acceptance by Customs of all forms, electronically or otherwise, comprising a complete manifest as provided in § 4.7, except that the Cargo Declaration, Customs Form (CF) 1302, must be presented to Customs electronically in the manner provided in § 4.7(b)(2). Vessels seeking preliminary entry in advance of arrival must do so: by presenting to Customs the electronic equivalent of a complete Customs Form 1302 (Cargo Declaration), in the manner provided in § 4.7(b), showing all cargo on board the vessel; and by presenting Customs Form 3171 electronically no less than 48 hours prior to vessel arrival. * * *

* * * * *

5. It is proposed to amend § 4.30 by adding a new paragraph (n) to read as follows:

§ 4.30 Permits and special licenses for unlading and lading.

* * * * *

(n)(1) Customs will not issue a permit to unlade until it has received the cargo declaration information pursuant to § 4.7(b). In cases in which Customs does not receive complete cargo manifest information from the carrier or from the NVOCC, in the manner and format required by § 4.7(b), 24 hours prior to the lading of the cargo aboard the vessel at the foreign port, Customs may delay issuance of a permit to unlade the entire vessel until all required information is received. Customs may also decline to issue a permit to unlade the specific cargo for which a declaration is not received 24 hours before lading in a foreign port. Furthermore, where the carrier does not present an advance cargo manifest to Customs electronically, in the manner provided in § 4.7(b)(2), preliminary entry pursuant to § 4.8(b) will be denied.

(2) In addition, while the advance presentation of the cargo manifest for any vessel subject to § 4.7(b)(2) may be made in paper form or by electronic transmission through a Customs-approved electronic data interchange system, the submission of an electronic manifest for the cargo in this regard, as opposed to a paper manifest, will further facilitate the prompt issuance of a permit to unlade the cargo.

PART 113—B CUSTOMS BONDS

1. The general authority citation for part 113 would continue to read as follows:

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

2. It is proposed to amend § 113.64 by revising the first sentence of paragraph (a); and by redesignating paragraphs (c), (d), (e) and (f) as paragraphs (d), (e), (f) and (g), respectively, and adding a new paragraph (c) to read as follows:

§ 113.64 International carrier bond conditions.

(a) *Agreement to Pay Penalties, Duties, Taxes, and Other Charges.* If any vessel, vehicle, or aircraft, or any master, owner, or person in charge of a vessel, vehicle or aircraft, or any non-vessel operating common carrier as defined in § 4.7(b)(3)(ii) of this chapter incurs a penalty, duty, tax or other charge provided by law or regulation, the obligors (principal and surety, jointly and severally) agree to pay the sum upon demand by Customs. * * *

* * * * *

(c) *Non-vessel operating common carrier (NVOCC).* If a non-vessel operating common carrier (NVOCC) as defined in § 4.7(b)(3)(ii) of this chapter elects to provide vessel cargo manifest information to Customs electronically, the NVOCC, as a principal under this

bond, in addition to compliance with the other provisions of this bond, also agrees to provide such manifest information to Customs in the manner and in the time period required by §§ 4.7(b) and 4.7a(c) of this chapter. If the NVOCC, as principal, defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of $5,000 for each regulation violated.

* * * * *

Robert C. Bonner,

Commissioner of Customs.

Approved: August 6, 2002.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–20147 Filed 8–6–02; 11:42 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–044]

RIN 1218–AA84

Occupational Exposure to 2-Methoxyethanol, 2-Ethoxyethanol and Their Acetates (Glycol Ethers)

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Reopening of the rulemaking record on a proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is re-opening the record in the rulemaking on Occupational Exposure to 2-Methoxyethanol, 2-Ethoxyethanol, and their Acetates (Glycol Ethers) to solicit information on the extent to which the four glycol ethers (2–ME, 2–EE, 2–MEA and 2–EEA) are currently used in the workplace. The Agency is also seeking information on substitutes for these four glycol ethers that employers may be using, including information on patterns of use, levels of employee exposure to the substitutes, and their degree of toxicity.

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or sent) by November 6, 2002.

Facsimile and Electronic Transmission: Your comments must be sent by November 6, 2002. (Please see the Supplementary Information provided below for additional information on submitting comments.)

ADDRESSES: *Regular Mail, Express Delivery, Hand-delivery, and Messenger Service:* You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. H–044, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m., EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number of this document, Docket No. H–044, in your comments.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.*

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries, contact the Office of Public Affairs, N–3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–1890. For technical inquiries, contact Ms. Amanda Edens, Directorate of Health Standards Programs, OSHA, N–3718, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone 202–693–2270. For additional copies of this **Federal Register** document, contact OSHA, Office of Publications, U.S. Department of Labor, Room N–3101, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1888. Electronic copies of this **Federal Register** document, as well as news releases and other relevant documents, are available at OSHA's web page on the Internet at *www.osha.gov.*

SUPPLEMENTARY INFORMATION:

Submission of Comments on This Document and Internet Access to Comments and Submissions

You may submit comments in response to this document by (1) hard copy, or (2) FAX transmission (facsimile), or (3) electronically through the OSHA Webpage. Please note that you cannot attach materials, such as studies or journal articles, to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

All comments and submissions will be available for inspection and copying at the OSHA Docket Office at the above address. Comment and submissions posted on OSHA's Web site are available at *www.osha.gov.* OSHA cautions you about submitting personal information such as social security numbers and birth dates. Contact the OSHA Docket Office at (202) 693–2350 for information about materials not available through the OSHA Web page and for assistance in using the Web page to locate docket submissions.

Background

On March 23, 1993, OSHA proposed to reduce permissible exposure limits for four ethylene glycol ethers (2-Methoxyethanol (2–ME), 2-Ethoxyethanol (2–EE), and their acetates (2–MEA, 2–EEA)) to protect approximately 46,000 workers from significant risks of adverse reproductive and developmental health effects (58 FR 15526). The Agency held informal public hearings on the proposal, and the record was certified in March 1994.

Information submitted in response to the proposal, at the hearings, and in post-hearing comments indicates that the domestic production of the four ethylene glycol ethers was on the decline and that their use in several key industry sectors either may have been eliminated or may have been in the process of being phased out (Exs. 11–18, 19B, 28, 29A, 48, 53, 58; Ex. 302–X, pp. 596–600). By the close of the record, there was testimony that 2–MEA production had been phased out completely. There also had been a significant decline in production of the remaining glycol ethers since 1987. The vast majority of the 2–EE produced in 1991 was used as a chemical intermediate to produce 2–EEA, of which nearly 75% was exported; 2–EEA production for paints and coatings had been reduced by almost three-quarters since 1987; and most of 2–ME production was planned to be phased out by 1996 (Exs. 29A, 58). The evidence in the record indicated that less than one-half of the 11 major use categories that had been identified in OSHA's preliminary economic analysis remained (Ex. 58; Ex. 302–X, pp. 596–600).

Evidence also was submitted that the four ethylene glycol ethers were being shifted out of several critical uses. Evidence indicated that these glycol ethers were no longer being used in the auto refinishing industry (Exs. 24, 53), which accounted for about 86 percent of the affected establishments and 57