after January 1, 1997, and during a consolidated return year for which the due date of the income tax return (without extensions) is on or before March 13, 1998).

* * * * *

Par. 5. Section 1.1502–4T is amended by revising paragraphs (f) and (g)(3) to read as follows:

§ 1.1502–4T Consolidated foreign tax credit (temporary).

* * * * *

(f) *Limitation on unused foreign tax carryover or carryback from separate return limitation years.* Section 1.1502–4(f) does not apply for consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998. For consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, a group shall include an unused foreign tax of a member arising in a SRLY without regard to the contribution of the member to consolidated tax liability for the consolidated return year. See also § 1.1502–3T(c)(4) for an optional effective date rule (generally making the rules of this paragraph (f) applicable to a consolidated return year beginning after December 31, 1996, if the due date of the income tax return (without extensions) for such year is on or before March 13, 1998).

* * * * *

(g)(3) *Special effective date for CRCO limitation.* Section 1.1502–4(g) applies only to a consolidated return change of ownership that occurred during a consolidated return year for which the due date of the income tax return (without extensions) is on or before March 13, 1998. See also § 1.1502–3T(c)(4) for an optional effective date rule (generally making the rules of this paragraph (g)(3) applicable if the consolidated return change of ownership occurred on or after January 1, 1997, and during a consolidated return year for which the due date of the income tax return (without extensions) is on or before March 13, 1998).

Par. 6. In § 1.1502–9, paragraph (a) is amended by removing the last sentence and adding two sentences in its place to read as follows:

§ 1.1502–9 Application of overall foreign loss recapture rules to corporations filing consolidated returns.

(a) * * * See § 1.1502–9T(b)(1)(v) for the rule that ends the separate return limitation year limitation for consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998. See also § 1.1502–3T(c)(4) for an optional effective date rule (generally making the rules of paragraphs (b)(1)(iii) and (iv) of this section inapplicable for a consolidated return year beginning after December 31, 1996, if the due date of the income tax return (without extensions) for such year is on or before March 13, 1998).

* * * * *

Par. 7. Section 1.1502–9T is amended by revising paragraph (b)(1)(v) to read as follows:

§ 1.1502–9T Application of overall foreign loss recapture rules to corporations filing consolidated returns (temporary).

* * * * *

(b)(1)(v) *Special effective date for SRLY limitation.* Sections 1.1502–9(b)(1)(iii) and (iv) apply only to consolidated return years for which the due date of the income tax return (without extensions) is on or before March 13, 1998. For consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, the rules of § 1.1502–9(b)(1)(ii) shall apply to overall foreign losses from separate return years that are separate return limitation years. For purposes of applying § 1.1502–9(b)(1)(ii) in such years, the group treats a member with a balance in an overall foreign loss account from a separate return limitation year on the first day of the first consolidated return year for which the due date of the income tax return (without extensions) is after March 13, 1998, as a corporation joining the group on such first day. An overall foreign loss that is part of a net operating loss or net capital loss carryover from a separate return limitation year of a member that is absorbed in a consolidated return year for which the due date of the income tax return (without extensions) is after March 13, 1998, shall be added to the appropriate consolidated overall foreign loss account in the year that it is absorbed. For consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, similar principles apply to overall foreign losses when there has been a consolidated return change of ownership (regardless of when the change of ownership occurred). See also § 1.1502–3T(c)(4) for an optional effective date rule (generally making this paragraph (b)(1)(v) applicable to a consolidated return year beginning after December 31, 1996, if the due date of the income tax return (without extensions) for such year is on or before March 13, 1998).

* * * * *

Par. 8. Section 1.1502–55T is amended by revising paragraph (h)(4)(iii)(C) to read as follows:

§ 1.1502–55T Computation of alternative minimum tax of consolidated groups (temporary).

* * * * *

(h)(4) * * *

(iii) * * *

(C) *Effective date.* This paragraph (h)(4)(iii) applies to consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998. However, a group does not take into account a consolidated taxable year for which the due date of the income tax return (without extensions) is on or before March 13, 1998, in determining a member's (or subgroup's) contributions to the consolidated section 53(c) limitation under this paragraph (h)(4)(iii). See § 1.1502–3T(c)(4) for an optional effective date rule (generally making this paragraph (h)(4)(iii) applicable to a consolidated return year beginning after December 31, 1996, if the due date of the income tax return (without extensions) for such year is on or before March 13, 1998).

Approved: March 9, 1998.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–6561 Filed 3–13–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 55, 72, 178 and 179

[T.D. ATF–396; Ref: T.D. ATF–363 and Notice No. 807; T.D. ATF–383 and Notice No. 833]

RIN 1512–AB35

Implementation of Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (94F–022P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: These final regulations implement the provisions of Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994. This Treasury decision adopts the regulations substantially as proposed in Notice No. 807, as amended by Notice No. 833.

The temporary regulations published in the **Federal Register** on April 6, 1995

(T.D. ATF–363) and July 29, 1996 (T.D. ATF–383), are adopted as final upon the effective date of this final rule.

EFFECTIVE DATE: This rule is effective on May 15, 1998.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1994, Public Law 103–322 (108 Stat. 1796) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44), and Title XI of the Organized Crime Control Act of 1970, as amended (18 U.S.C. Chapter 40). The provisions of Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (hereafter, ''the Act''), became effective upon the date of enactment.

Temporary Rule (T.D. ATF–363) and Notice of Proposed Rulemaking

On April 6, 1995, ATF published in the **Federal Register** a temporary rule implementing the provisions of the Act (T.D. ATF–363, 60 FR 17446). The temporary regulations implemented the law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large capacity ammunition feeding devices, with certain exceptions. Regulations were also prescribed with regard to reports of theft or loss of firearms from a licensee's inventory or collection, new requirements for Federal firearms licensing, responses by firearms licensees to requests for gun trace information, and possession of firearms by persons subject to restraining orders. Except as otherwise provided, the temporary regulations became effective upon the date of publication in the **Federal Register**.

On April 6, 1995, the Bureau also published a notice of proposed rulemaking cross-referenced to the temporary regulations (Notice No. 807, 60 FR 17494). The comment period for Notice No. 807 closed on July 5, 1995.

Temporary Rule (T.D. ATF–383) and Notice of Proposed Rulemaking

ATF received 129 comments in response to Notice No. 807. Fifty-two commenters, representing 40 percent of the total comments received, objected to ATF's interpretation of the law as restricting the importation of large capacity ammunition feeding devices after the date of enactment regardless of the date of manufacture of such devices. They also contended that the marking requirements prescribed in the regulations pursuant to T.D. ATF–363 (§ 178.92(c)) only apply to large capacity ammunition feeding devices manufactured after the effective date of the statute. Similar objections and arguments were raised in litigation challenging ATF's interpretation of the law.

After analyzing the comments received and in light of the above-mentioned litigation, ATF re-examined the Act and determined that feeding devices with a capacity of more than 10 rounds manufactured on or before September 13, 1994, are not subject to the restrictions of the law. Consequently, on July 29, 1996, ATF published in the **Federal Register** another temporary rule reflecting this position (T.D. ATF–383, 61 FR 39320). The temporary rule also provided guidance to importers on acceptable evidence that magazines sought to be imported were manufactured on or before September 13, 1994.

On July 29, 1996, the Bureau also published a notice of proposed rulemaking cross-referenced to the temporary regulations (Notice No. 833, 61 FR 39372). The comment period for Notice No. 833 closed on October 28, 1996.

Analysis of Comments—Notice No. 807

ATF received 129 comments in response to Notice No. 807. Fifty-seven comments, representing 44 percent of the comments received, expressed general support for the temporary regulations. However, these commenters requested that the final rule include a number of changes.

One commenter recommended that the term ''pistol grip'' be defined so that it includes so-called thumbhole stocks. The term ''semiautomatic assault weapon'' is defined in the Act as including semiautomatic rifles and semiautomatic shotguns which have 2 or more of the features specified in the law. One of the features specified is a ''pistol grip that protrudes conspicuously beneath the action of the weapon.'' The commenter stated that thumbhole stocks function in the same manner as pistol grips and, therefore, should be included within the definition of this term.

ATF agrees with the commenter that replacing a separate pistol grip with a thumbhole stock does not remove the pistol grip as a feature. A semiautomatic rifle or semiautomatic shotgun with a thumbhole stock and one or more of the other features specified in the law would be a ''semiautomatic assault weapon'' as defined. However, ATF does not believe it is necessary to provide a separate definition of ''pistol grip'' or any of the other features listed in the statute.

Several commenters recommended that Federal firearms licensees be required to swear under penalties of perjury that semiautomatic assault weapons and large capacity ammunition feeding devices will be transferred only to lawful recipients. The regulations in 27 CFR 178.40 and 178.40a provide that manufacturers and dealers may manufacture and deal in semiautomatic assault weapons and large capacity ammunition feeding devices manufactured after September 13, 1994, upon obtaining evidence that the weapons and devices will only be disposed of to law enforcement agencies and law enforcement officers.

ATF does not believe that imposing such a requirement on licensees is necessary. Pursuant to 18 U.S.C. § 922(m), it is unlawful for any licensee to make a false entry in any required record. A violation of this section can result in revocation of the license or in criminal prosecution. ATF believes these sanctions are adequate to deter most licensees from falsifying documents. Accordingly, ATF is not adopting the changes recommended by the commenters.

ATF also received comments concerning the wording of the export marking requirement for semiautomatic assault weapons and large capacity ammunition feeding devices. The commenters recommended that the wording of the present regulatory requirement, ''FOR EXPORT ONLY,'' be changed to read ''DOMESTIC SALE UNLAWFUL, FOR EXPORT ONLY.'' The commenters stated their belief that this language more adequately conveys the fact that such weapons and devices are highly restricted and are illegal for domestic sale.

ATF believes that the wording of the current export marking requirement provides sufficient notice that these weapons and devices are not intended for domestic sale. Furthermore, to ATF's knowledge, the current marking requirement has not resulted in any confusion among the general public. Accordingly, the Bureau has determined that the proposed amendment is unwarranted and would impose an unnecessary burden on the industry.

Several commenters stated that variances from the marking requirements imposed on semiautomatic assault weapons and large capacity ammunition feeding devices should not be allowed. Current regulations provide that the Director may authorize other means of

identifying assault weapons and feeding devices when such other identification is reasonable and will not hinder the effective administration of the regulations. The commenters contend that marking variances could be used by manufacturers to create confusion as to the legal status of post-ban weapons and feeding devices.

ATF is not adopting the commenters' suggestion. The decision to allow marking variances for semiautomatic assault weapons and large capacity ammunition feeding devices is consistent with that for other firearms. In the case of such weapons and devices, ATF has authorized variances from the marking requirements only for law enforcement and military purposes where there is a demonstrated need for such a variance.

One commenter states that the current regulations requiring that assault weapons be marked ''RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY'' raises concerns in the case of weapons that are reconfigured so that they no longer meet the definition of ''semiautomatic assault weapon.'' The commenter raised the case of an assault weapon transferred to a law enforcement officer upon retirement, which is permissible under the law. If the retiree subsequently decides to remove features from the weapon so that it is no longer subject to the restrictions of the law, he may have difficulty selling it, due to the restrictive marking. To address this potential problem, the commenter recommends that ATF amend the regulations to require only that the date of manufacture be marked on the weapon.

ATF maintains that the restrictive language required in the current regulations clearly provides notice to law enforcement officers and the general public that semiautomatic assault weapons may be lawfully possessed only by Government agencies and law enforcement personnel. ATF does not believe that placing the date of manufacture on the weapons provides this information. Accordingly, ATF is not adopting this comment.

To address the commenter's concern about reconfiguration of an assault weapon, if the weapon has been modified so it no longer meets the definition of ''semiautomatic assault weapon,'' it is not subject to the restrictions of the law. However, ATF would caution that a dealer obtaining assault weapons by falsely representing that the weapons are for resale to law enforcement, but who actually intends to reconfigure the weapons so they no longer meet the definition of assault weapon, would possess the weapons in violation of 18 U.S.C. § 922(v). The Federal firearms licenses of such dealers would also be subject to revocation.

The same commenter concerned about reconfiguration also had recommendations concerning the documentation required for law enforcement officers to acquire assault weapons for official use. The regulations at 27 CFR 178.132 require licensees to obtain written statements, under penalty of perjury, from the purchasing officer and a supervisory officer, stating that the weapon is for use in performing official duties and is not being acquired for personal use or for purposes of transfer or resale. The commenter requests that ATF amend the regulations to permit officers to obtain semiautomatic assault weapons for purposes of familiarization, marksmanship, and training. The commenter also contends that the regulation appears to prevent the officer from reselling the weapon, even if reconfigured so that it no longer meets the definition of ''semiautomatic assault weapon.''

It is unnecessary to amend section 178.132 to include familiarization, marksmanship, and training as valid purposes for law enforcement officers obtaining semiautomatic assault weapons. If these activities are part of a law enforcement officer's official duties and a supervisor is willing to submit a statement certifying to such duties, the weapon may be lawfully acquired for such purposes. ATF does not believe it is necessary to spell out every possible official use in the regulation.

As for the comment concerning resale, neither the law nor the regulation prevents future resale of the weapon by the purchasing officer. The regulation merely requires the officer to state, under penalty of perjury, that the weapon is not being acquired for purposes of transfer or resale. The regulation merely requires that the officer acquire the weapon for official use and not for purposes of transfer or resale. The issue concerning reconfiguration is discussed above.

Several clarifying amendments have been made to § 178.132. The regulation is being amended to provide that the written statement prepared by the purchaser's supervisor must be on agency letterhead. The regulation is also being revised to provide that this section applies to the transfer of assault weapons and large capacity ammunition feeding devices to employees or contractors of nuclear facilities.

Analysis of Comments—Notice No. 833

ATF received one comment in response to Notice No. 833. This commenter objected to ATF requiring an import permit for ammunition feeding devices manufactured on or before September 13, 1994, as specified in § 178.119.

In order to ensure compliance with the provisions of the law and to enforce the marking requirements of the statute, ATF has determined that it is necessary to require importers to obtain import permits for feeding devices manufactured on or before September 13, 1994. ATF maintains that this requirement is necessary in order to determine whether the devices are subject to the restrictions of the law. Since import permits for such devices are already required pursuant to the Arms Export Control Act, 22 U.S.C. § 2778, and implementing regulations in 27 CFR Part 47, the burden imposed by this requirement is minimal. Accordingly, the Bureau is adopting the regulation as proposed in Notice No. 833.

Miscellaneous Amendments to Regulations

Section 923(g)(7) of the GCA and its implementing regulation in 27 CFR 178.25a require Federal firearms licensees to respond to requests for firearms trace information within 24 hours after receipt of the request. Personnel at the National Tracing Center have had problems with licensees providing the requested trace information on crime guns within the required 24-hour period. A question has arisen whether the licensee must provide the requested trace information within the 24-hour period or whether licensees would comply with the requirement by simply acknowledging the request and providing the requested information at a later time. The statute and regulation require licensees to provide the requested trace information within the 24-hour period. To ''respond'' to a trace request within the meaning of the statute and regulation means to provide the information. Interpreting the statute otherwise gives the statute no meaning and defeats its purpose, to enable ATF to obtain trace information quickly by telephone. Accordingly, § 178.25a is being amended to clarify that licensees must provide the requested trace information within the 24-hour period. A technical amendment is also being made at the end of this section to include the control number assigned by the Office of Management and Budget (OMB).

A technical amendment is also being made to the marking requirements in 27 CFR 178.92. Language has been added to § 178.92(c)(1)(iii), relating to markings for large capacity ammunition

feeding devices, to make it clear that importers who import such devices for purposes of export shall mark them ''FOR EXPORT ONLY.''

Finally, ATF is making a technical amendment to the definition of ''firearm'' in 27 CFR 179.11 with respect to the sentence describing barrel length measurement. The amendment makes it clear that measurements do not apply to revolvers. It also clarifies that the method specified does not apply to revolving cylinder shotguns.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined in E.O. 12866, because the economic effects flow directly from the underlying statute and not from this final rule. Accordingly, this final rule is not subject to the analysis required by this Executive order.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Paperwork Reduction Act

The collections of information contained in this final regulation have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(d)) under control numbers 1512–0017, 1512–0018, 1512-0019, 1512–0526, and 1512–0387. Other collections of information contained in this final rule have been approved under control numbers: 1512–0522 and 1512-0523 (§ 178.47); 1512–0524 (§ 178.39a); and 1512–0525 (§ 178.52). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The collections of information in this final regulation are in 27 CFR 178.25a, 178.40(c), 178.40a(c), 178.119, 178.129(e), 178.132, and 178.133. This information is required by ATF to ensure compliance with the provisions of Pub. L. 103–322 (108 Stat. 1796). The likely respondents and recordkeepers are individuals and businesses. The estimated average annual burden associated with the collections of information in this regulation is 6 minutes per respondent for control numbers 1512–0017, 1512–0018, and 1512–0019, and 2.52 hours per respondent or recordkeeper for control number 1512–0526.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Chief, Document Services Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503.

Disclosure

Copies of the temporary rules, the notices of proposed rulemaking, all written comments, and this final rule will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

27 CFR Part 179

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

Accordingly, 27 CFR Parts 55, 72, 178 and 179 are amended as follows:

Paragraph 1. The temporary rule published April 6, 1995 (60 FR 17446), amended July 29, 1996 (61 FR 39320) and further amended February 25, 1997 (62 FR 8374) is adopted as final.

Paragraph 1a. The temporary rule published July 29, 1996 (61 FR 39320) is adopted as final.

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Paragraph 1b. The authority citation for 27 CFR Part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 2. Section 178.25a is amended by revising the second sentence and by adding a parenthetical text at the end of the section to read as follows:

§ 178.25a Responses to requests for information.

* * * The requested information shall be provided orally to the ATF officer within the 24-hour period. * * *

(Approved by the Office of Management and Budget under control number 1512–0387)

§ 178.92 [Amended]

Par. 3. Section 178.92(c)(1)(iii) is amended by adding the words ''or imported'' after the words ''in the case of devices manufactured''.

Par. 4. Section 178.132 is revised to read as follows:

§ 178.132 Dispositions of semiautomatic assault weapons and large capacity ammunition feeding devices to law enforcement officers for official use and to employees or contractors of nuclear facilities.

Licensed manufacturers, licensed importers, and licensed dealers in semiautomatic assault weapons, as well as persons who manufacture, import, or deal in large capacity ammunition feeding devices, may transfer such weapons and devices manufactured after September 13, 1994, to law enforcement officers and to employees or contractors of nuclear facilities with the following documentation:

(a) *Law enforcement officers.* (1) A written statement from the purchasing officer, under penalty of perjury, stating that the weapon or device is being purchased for use in performing official duties and that the weapon or device is not being acquired for personal use or for purposes of transfer or resale; and

(2) A written statement from a supervisor of the purchasing officer, on agency letterhead, under penalty of perjury, stating that the purchasing officer is acquiring the weapon or device for use in official duties, that the firearm is suitable for use in performing official duties, and that the weapon or device is not being acquired for personal use or for purposes of transfer or resale.

(b) *Employees or contractors of nuclear facilities.* (1) Evidence that the employee is employed by a nuclear facility licensed pursuant to 42 U.S.C. 2133 or evidence that the contractor has a valid contract with such a facility.

(2) A written statement from the purchasing employee or contractor under penalty of perjury, stating that the weapon or device is being purchased for one of the purposes authorized in

§§ 178.40(b)(7) and 178.40a(b)(3), i.e., on-site physical protection, on-site or off-site training, or off-site transportation of nuclear materials.

(3) A written statement from a supervisor of the purchasing employee or contractor, on agency or company letterhead, under penalty of perjury, stating that the purchasing employee or contractor is acquiring the weapon or device for use in official duties, and that the weapon or device is not being acquired for personal use or for purposes of transfer or resale.

(Approved by the Office of Management and Budget under control number 1512–0526)

PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Par. 5. authority citation for 27 CFR Part 179 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 6. Section 179.11 is amended by revising the third sentence in the definition of ''Firearm'' to read as follows:

§ 179.11 Meaning of terms.

* * * * *

Firearm. * * * For purposes of this definition, the length of the barrel having an integral chamber(s) on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breech block when closed and when the shotgun or rifle is cocked. * * *

* * * * *

Signed: July 25, 1997.

John W. Magaw,

Director.

Approved: August 11, 1997.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)

Editorial note: This document was received at the Office of the Federal Register on March 10, 1998.

[FR Doc. 98–6591 Filed 3–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 31, 32, 36, 70, and 75

RIN 1219–AA27

Approval, Exhaust Gas Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; corrections.

SUMMARY: This document corrects errors in MSHA's regulations for the approval, exhaust gas monitoring, and safety requirements for the use of diesel-powered equipment in underground coal mines.

EFFECTIVE DATE: March 16, 1998.

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

SUPPLEMENTARY INFORMATION:

On October 25, 1996, MSHA published a final rule that established approval, exhaust gas monitoring, and safety requirements for the use of diesel-powered equipment in underground coal mines (61 FR 55412). This notice corrects an editorial error in that final rule for § 75.1906(g) and the corresponding preamble language.

The preamble to the final rule, on page 55454, third column, first sentence, currently reads:

Paragraph (g) requires non-self-propelled diesel fuel transportation units equipped with electric components for dispensing fuel that are connected to a source of electrical power be provided with a fire suppression device that meets the requirements of existing §§ 75.1107–3 through 75.1107–6, §§ 75.1107–8, *and* § 75.1107–16. * * * [emphasis added]

This section should read:

Paragraph (g) requires non-self-propelled diesel fuel transportation units equipped with electric components for dispensing fuel that are connected to a source of electrical power be provided with a fire suppression device that meets the requirements of existing §§ 75.1107–3 through 75.1107–6, *and* §§ 75.1107–8 *through* 75.1107–16. * * * [emphasis added]

Section 75.1107, as a whole, specifies requirements for fire suppression devices for both attended and unattended equipment used in underground coal mines. The various subsections in § 75.1107 address different types of fire suppression devices so as to allow flexibility in the choice of a fire suppression system. This flexibility enables the mine operator to choose a fire suppression device that is appropriate for the type of equipment or installation where it will be used.

When this existing regulation was incorporated by reference in the final rule for the use of diesel-powered equipment in underground coal mines, MSHA's intent was to reference all sections of the existing fire suppression requirements that would provide effective fire suppression capability for the combined hazards presented by the storage of diesel fuel in conjunction with electrical components. Because water can spread, rather than suppress, a diesel fuel fire, water deluge type devices are inappropriate for fighting diesel fuel fires at electrical installations. MSHA's intent was to exclude only the use of water deluge type devices, described by § 75.1107–7, when fighting diesel fuel fires, and to allow the use of all other types of fire suppression devices addressed in the other subsections of § 75.1107. An appropriate fire suppression device for non-self-propelled diesel fuel transportation units, therefore, must meet the requirements for underground equipment with the exception of those that use water.

This notice corrects the final rule and corresponding preamble language for § 75.1906(g) by replacing ''and'' with ''through'' to reflect that non-self-propelled diesel fuel transportation units that are connected to a source of electrical power require fire suppression devices that are effective for the hazard.

List of Subjects in 30 CFR Part 75

Diesel-powered equipment, Mine safety and health, Underground coal mines. Reporting and recordkeeping requirements.

Dated: March 9, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Accordingly, chapter I of title 30, Code of Federal Regulations is amended as follows:

PART 75—[AMENDED]

1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

2. Section 75.1906(g), is corrected to read as follows:

§ 75.1906 Transport of diesel fuel.

* * * * *

(g) Non-self-propelled diesel fuel transportation units with electrical components for dispensing fuel that are connected to a source of electrical power must be protected by a fire suppression device that meets the requirements of §§ 75.1107–3 through 75.1107–6, and §§ 75.1107–8 through 75.1107–16.

* * * * *

[FR Doc. 98–6582 Filed 3–13–98; 8:45 am]

BILLING CODE 4510–43–P