

The amount of the investment credit earned on the motion picture in the credit year is \$140,000. All of the credit earned is allowed under section 98 as a credit against A's liability for tax in the credit year. On January 1, 1978, A disposes of part of the motion picture by selling the exclusive theater exhibition rights throughout Western Europe for the life of the copyright to B for \$1,000,000. A and B are not related persons under paragraph (f) (1) of this section. A estimates that the fair market value of the theater exhibition rights in Western Europe was \$1,000,000 as of the time the motion picture was placed in service and that the fair market value of the complete motion picture was \$4,000,000 as of the time it was placed in service.

(b) A decides to use the relative fair market-values of the complete motion picture and that part of the motion picture disposed of to allocate basis to that part of the motion picture disposed of. He therefore allocates \$500,000 (25 percent of \$2,000,000) of his basis in the complete motion picture to the part disposed of.

(c) The credit earned for the taxable year 1975 on that part of the motion picture disposed of was \$35,000 (25 percent of \$140,000, the credit earned on the complete motion picture in 1975). The recomputed qualified investment on that part of the motion picture disposed of is zero (\$500,000 basis multiplied by zero applicable percentage) and the recomputed credit earned is zero. The income tax imposed by chapter 1 of the Code on A for the taxable year 1976 is increased by \$35,000, the decrease in his credit earned for the taxable year 1976 due to the partial disposition in 1976.

Example (2). (a) The facts are the same as in example (1) and in addition on March 1, 1978, A sells all exhibition rights in all mediums in Canada throughout the life of his copyright to C (who is unrelated to A under paragraph (f) (1) of this section) for \$200,000 and estimates that the fair market value of the exhibition rights in Canada was \$200,000 at the time the motion picture was placed in service.

(b) A decides to use the relative fair market values of the complete motion picture and that part of the motion picture disposed of to allocate basis to that part of the motion picture disposed of in 1978. He therefore allocates \$100,000 (5 percent of \$2,000,000) of his basis in the complete motion picture to the part disposed of.

(c) The credit earned for the taxable year 1975 on that part of the motion picture disposed of in 1978 was \$7,000 (5 percent of \$140,000, the credit earned on the complete motion picture in 1975). The recomputed qualified investment on that part of the motion picture disposed of in 1978 is \$33,333 (\$100,000 basis multiplied by the applicable percentage of 33 1/3 percent) and the recomputed credit earned is \$2,333 (7 percent of \$33,333). The income tax imposed by chapter 1 of the Code on A for the taxable year 1978 is increased by the \$4,667 decrease in his credit earned for the taxable year 1976 (that is, \$7,000, credit earned in 1975, minus \$2,333, the recomputed credit earned).

(g) *Motion picture and television films and tapes used outside the United States.* Notwithstanding paragraph (g) of § 1.48-1, the determination of whether a motion picture or television film or tape which qualifies for the investment credit is used predominantly outside of the United States during the taxable year shall be made by comparing the gross receipts derived from exploitation within the United States during such year with the gross receipts derived from ex-

ploitation outside of the United States during such year. If more than 50 percent of the gross receipts derived from exploitation during the taxable year are derived from outside of the United States, the motion picture or television film or tape shall be considered used predominantly outside the United States during that year. Thus, a motion picture film generating \$1,000,000 in gross receipts in a taxable year would be considered used predominantly outside the United States during such year if \$750,000 or 75 percent of the gross receipts are derived from exhibition in foreign countries while only \$250,000 or 25 percent of the gross receipts are derived from exhibition in the United States. The term gross receipts for purposes of this paragraph means all receipts (unreduced by any expenses, including the expenses of distribution and depreciation) from the exploitation or use of a motion picture or television film or tape by any method including the lease or license of exhibition rights or any sale, exchange, or other disposition of all or part of the exploitation rights which does not result in a complete disposition or a partial disposition under paragraph (f) of this section. If a motion picture or television film or tape is placed in service after the first day of the taxable year, the determination of whether more than 50 percent of the gross receipts are derived from outside of the United States shall be made with respect to the period beginning on the date on which the property is placed in service and ending on the last day of such taxable year. Predominant use of a motion picture or television film or tape outside of the United States may not be avoided by any sale or exchange of foreign exploitation rights to a related person, since such a disposition is not a partial disposition under paragraph (f) of this section. Any gross receipts derived from foreign exploitation of any part of a motion picture or television film or tape disposed of to a related person, shall continue to be taken into account by the transferor in determining whether or not the film or tape is used outside of the United States during a taxable year.

(h) *Ownership.* In determining whether a person has an ownership interest in a motion picture or television film or tape which qualifies for the investment credit and is entitled to the investment credit on such interest, the principal factors to be taken into account are—

(1) The extent to which such person bears the risk of loss from the production and exploitation of such motion picture or television film or tape,

(2) Whether or not such person shares in any net profits from exploitation of such motion picture or television film or tape, and

(3) The period during which and the extent to which such person has control over exploitation of such motion picture or television film or tape.

5. New paragraph (d) is added to § 1.50-1 to read as follows:

§1.50-1 Restoration of credit.

(d) *Motion picture and television films and tapes.* A section 50 motion picture or television film or tape (see paragraph (c) (2) of § 1.448-8) shall be considered completed on the date of completion of the final negative or other film or tape material which is designed to produce release prints and which is capable of being used to produce release prints. However, all episodes of a section 50 television film or tape series treated as one television film or tape under paragraph (c) (2) of § 1.48-8 shall be considered completed on the date of completion of the final negative or other film or tape material which is designed to and capable of being used to produce the release prints for the final television film or tape episode of such series. A release print is a film or tape made for public exhibition or some other use in completed form.

[FR Doc.76-7642 Filed 3-16-76; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 173, 178]

[Docket Nos. HM-74, 74A; Notices 76-1 76-1A]

CYLINDERS MANUFACTURED OUTSIDE THE UNITED STATES

Separation of Published Proposals, Extension of Comment Period and Hearing on Severed Proposal

This notice severs from the revised notice of proposed rulemaking published January 13, 1976 (41 FR 1919) in Docket No. HM-74 and places in a new separate Docket No. HM-74A that part of the amendments proposed therein that would discontinue the existing authority for using "interested" inspectors to perform inspections and testing of domestically manufactured low-pressure compressed gas cylinders. In addition, this notice extends the period for public comments and announces a public hearing, with respect to the severed portion of the proposal.

Requests for an extension of time were submitted by the American Cylinder Manufacturers Committee (ACMC), the Compressed Gas Association, Inc. (CGA) and the Hazardous Materials Advisory Committee (HMAC).

The request from ACMC argues that additional comment time of unspecified duration is necessary because "new issues have been raised by publication of HM-74 and it is imperative for the Office of Hazardous Materials Operations to thoroughly determine the current condition of the foreign cylinder industry."

The request from the CGA argues that 60 days of additional comment time is necessary for them because their "technical committees have not had an opportunity to even consider the matter of third party inspection for DOT cylinders that have never required such inspection [i.e., low-pressure cylinders]." In their request, CGA also suggested that consideration be given to separating the proposed changes relating to cylinders

manufactured outside the United States from those covering the matter of third party or independent inspection for domestic cylinder manufacturers.

The request from the HMAC asks for an extension of four and a half months until August 1, 1976. The HMAC argues that "new issues have been raised, especially the requirement that all domestically manufactured cylinders be inspected by disinterested persons" and that "it is imperative that industry thoroughly consider the condition of the foreign cylinder industry." In addition, the HMAC request includes the pretentious assertion that "[i]ndustry segments have specific procedures for the development of comments on proposals of this magnitude. Through their associations they make a rule-by-rule analysis of each proposal, staff this information, and then disseminate it to their respective industry units for comment; then they are ready to express formal comments to the EPA (sic)."

The Materials Transportation Bureau (MTB) believes that the comment period provided in the January 13, 1976 notice (41 FR 1919), in addition to the extensive prior public participation in HM-74, is sufficient and provides the basis for consideration of those provisions in the Docket relating to proposed MTB approval of individual foreign cylinder manufacturers for non-domestic chemical analysis and test verification and proposed MTB approval of individual independent inspection agencies for inspection of foreign manufactured cylinders.

The foreign inspection tours performed by the Office of Hazardous Materials, and by the industry group which the APMC was instrumental in arranging, provided a representative sampling of European cylinder manufacturers and inspection agencies. However, for the MTB to exhaustively examine the facilities of every actual or potential foreign cylinder manufacturer or inspection agency, without regard for which of those concerns may ever seek authority to engage in the manufacture or inspection of cylinders to be offered for transportation in the United States, would require excessive resources and would produce information of questionable value. The time required to conduct such a survey would result in its being outdated by the time it was completed, and such a survey would needlessly involve the examination of facilities which may never be used to produce or inspect cylinders for export to the United States.

The APMC's assertions that the MTB must examine all foreign cylinder manufacturers before considering approving the manufacture of cylinders for export to the United States by any one of them, and the HMAC's statement that industry must thoroughly consider the condition of the foreign cylinder industry, overlook the substance of the proposals and are

not a sufficient basis upon which to extend the time for public comment. Adequate time for comment on those proposals has already been provided.

The proposed requirement that all domestic cylinders be subject to inspection by an independent inspection agency, also contained in the January 13, 1976, FEDERAL REGISTER notice, was presaged in the June 10, 1971, FEDERAL REGISTER notice (36 FR 11224). There, the Hazardous Materials Regulations Board stated that "[q]uestions raised in the hearing regarding the needs for more effective approval and inspection procedures for domestic production of cylinders . . . will be treated in later rule making action." As pointed out by the APMC, the matter was not again specifically addressed until the recent January 13 FEDERAL REGISTER notice. Although the sixty days provided for public comment appear more than adequate, all three requestors have asked for an extension of the opportunity to comment on this element which they feel, albeit incorrectly, to be a new issue. In view of the extended compliance period proposed (January 1, 1978) and the desire of the MTB that this new proposal be as thoroughly addressed by interested parties as the rest of the proposed rule has been, there is hereby established a new Docket HM-74A. This new Docket severs from HM-74 the proposed amendments contained therein that would discontinue the existing authority for using "interested" inspectors to perform inspections and testing of domestically manufactured low-pressure compressed gas cylinders. The period for public comment with respect to this element of the proposal is extended to the close of business April 15, 1976, and a public hearing as to this element is set for 10 a.m., April 7, 1976, in the third floor auditorium of the Federal Office Building 10A (commonly referred to as the FAA Building) located at 800 Independence Avenue, S.W. Washington, D.C.

It is not anticipated that the extension being granted on the proposed discontinuation of "interested" inspectors for domestic low-pressure cylinders will result in any extension of the proposed effective date of January 1, 1978, for that particular change to the regulations.

With respect to all other matters which continue in Docket HM-74 and are not hereby severed and transferred to Docket HM-74A, the closing time for the public comment period remains the close of business March 15, 1976.

This notice is issued under 18 U.S.C. 834, 46 U.S.C. 170(7), 49 U.S.C. 1472(h), and 49 CFR 1.53(f)-(h).

Issued in Washington, D.C. on March 11, 1976.

ALAN I. ROBERTS,
Director, Office of
Hazardous Materials Operations.

[FR Doc.76-7601 Filed 3-16-76; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

Office of Education

[45 CFR Part 121d]

STATEWIDE EARLY EDUCATION PLANS FOR HANDICAPPED CHILDREN

Proposed Implementation

Pursuant to the authority contained in Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 of the Code of Federal Regulations by adding a new Subpart C to Part 121d to read as set forth below:

The proposed amendment to the regulations (Part 121d) would set forth rules and criteria governing the award of financial assistance to State educational agencies for the implementation of statewide plans for preschool and early education for handicapped children and the acceleration of special services to these children.

(a) *Summary of Proposed Amendment.*—1. *Organization.* The proposed amendment (Subpart C of Part 121d) is divided into five sections. Section 121d.50 lists the eligible parties; § 121d.51—states the purpose; § 121d.52—sets forth other applicable regulations; § 121d.53 contains provisions concerning application requirements; and § 121d.54—states the applicable criteria.

(b) *Citation of legal authority.* As required by section 431(a) of the General Education Provisions Act, a citation of statutory or other legal authority for each section of the proposed amendment has been placed in parentheses on the line following the text of the section.

(c) *Other applicable regulations.* The proposed amendment does not contain provisions relating to general fiscal and administrative matters. Requirements of this nature with respect to assistance under this subpart, including criteria for the selection of applications for funding (§ 100a.26(b)) are covered by the Office of Education General Provisions Regulations (45 CFR Part 100a), which also include rules on direct and indirect costs. Procedures for awarding Federal procurement contracts are covered by 41 CFR Chapters 1 and 3.

(d) *Notice to prospective applicants.* This first publication is not the final amendment to the regulations. It is followed by a thirty-day period which allows interested members of the public to submit comments and recommendations. Each comment will be given careful consideration and will be responded to in substance in the preamble to the amendment to the final regulations.

Following the review, the amendment will be published in final form, with any appropriate changes, in the FEDERAL REGISTER.