

	A	B	C
PART III	<p>For pressurized airplanes, at 6,000 hr. total TIS or within the next 100 hours TIS whichever occurs later, inspect fuselage station (F.S.) 100 for cracks.</p> <p>For non-pressurized airplanes, at 12,000 hr. total TIS or within the next 100 hours TIS whichever occurs later, inspect F.S. 100 for cracks..</p> <p>(Accomplish in accordance with PART III of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)</p>	<p>If cracked, prior to further flight, repair with an approved repair scheme (see paragraph (b) of this AD), and continue to inspect at 1,000 hr. intervals.</p> <p>(Accomplish in accordance with PART III of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)</p>	<p>If no cracks, repeat inspection at 1,000 hr. intervals until cracks are found, then accomplish PART III B of this AD</p> <p>(Accomplish in accordance with PART III of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)</p>

(b) Obtain an FAA-approved repair scheme from the manufacturer through the Manager of the Seattle Aircraft Certification Office at the address specified in paragraph (f) of this AD.

(c) For Twin Commander Models 520 and 560 airplanes, upon the accumulation of 6,000 hours total TIS or within the next 100 hours TIS whichever occurs later, accomplish PART II of the table in paragraph (a) of this AD. Accomplish PART III in accordance with the compliance times in the above table of paragraph (a). These models are excluded from the wing leading edge access hole installation in PART I of the table in paragraph (a) of this AD.

(d) For Twin Commander Models 690C and 695 airplanes, accomplish PARTS I and II in accordance with the compliance times in the above table of paragraph (a). These Models are excluded from PART III of the table in paragraph (a) of this AD.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office, 1601 Lind Ave. SW., Renton, Washington 98055-4056. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle Aircraft Certification Office.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to Twin Commander Aircraft Corporation, P.O. Box 3369, Arlington, Washington 98223; telephone (360) 435-9797; facsimile (360) 435-1112; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 12, 1997.

Michael Gallagher,
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-21873 Filed 8-18-97; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 403

Deceptive Use of "Leakproof," "Guaranteed Leakproof," Etc., as Descriptive of Dry Cell Batteries

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (the "FTC" or "Commission") announces the commencement of a rulemaking proceeding for the Trade Regulation Rule on Deceptive Use of "Leakproof," "Guaranteed Leakproof," Etc., as Descriptive of Dry Cell Batteries ("the Dry Cell Battery Rule" or "the Rule"), 16 CFR Part 403. The proceeding will address whether or not the Dry Cell Battery Rule should be repealed. The Commission invites interested parties to submit written data, views, and arguments on how the Rule has affected consumers, businesses and others, and on whether there currently is a need for the Rule. This document includes a description of the procedures to be followed, an invitation to submit written comments, a list of questions and issues upon which the Commission particularly desires comments, and instructions for prospective witnesses and other interested persons who desire to participate in the proceeding.

DATES: Written comments must be submitted on or before September 18, 1997. Notifications of interest in testifying must be submitted on or

before September 18, 1997. If interested parties request the opportunity to present testimony, the Commission will publish a document in the **Federal Register**, stating the time and place at which the hearings will be held and describing the procedures that will be followed in conducting the hearings. In addition to submitting a request to testify, interested parties who wish to present testimony must submit, on or before September 18, 1997, a written comment or statement that describes the issues on which the party wishes to testify and the nature of the testimony to be given.

ADDRESSES: Written comments and requests to testify should be submitted to Office of the Secretary, Federal Trade Commission, Room H-159, Sixth and Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-2506. Comments and requests to testify should be identified as "16 CFR Part 403 Comment—Dry Cell Battery Rule" and "16 CFR Part 403 Request to Testify—Dry Cell Battery Rule," respectively. If possible, submit comments both in writing and on a personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format and version used). Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: Neil Blickman, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Sixth and Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3038.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 41-58, and the Administrative Procedure Act, 5 U.S.C. 551-59, 701-06, by this Notice of Proposed Rulemaking

("NPR") the Commission initiates a proceeding to consider whether the Dry Cell Battery Rule should be repealed or remain in effect.¹ The Commission is undertaking this rulemaking proceeding as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to determine their effectiveness, impact, cost and need. This proceeding also responds to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations.

II. Background Information

On May 20, 1964, the Commission promulgated a trade regulation rule that states that in connection with the sale of dry cell batteries in commerce, the use of the word "leakproof," the term "guaranteed leakproof," or any other word or term of similar import, or any abbreviation thereof, in advertising, labeling, marking or otherwise, as descriptive of dry cell batteries, constitutes an unfair method of competition and an unfair or deceptive act or practice in violation of section 5 of the FTC Act (16 CFR 403.4). This Rule was based on the Commission's finding that, despite efforts by dry cell battery manufacturers to eliminate electrolyte leakage, battery leakage and damage therefrom occurs from the use to which consumers ordinarily subject dry cell batteries.

The Rule provides that manufacturers or marketers are not prohibited from offering or furnishing guarantees that provide for restitution in the event of damage from battery leakage, provided no representation is made, directly or indirectly, that dry cell batteries will not leak (16 CFR 403.5). The Rule further provides that in the event any person develops a new dry cell battery that he believes is in fact leakproof, he may apply to the Commission for an amendment to the Rule, or other appropriate relief (16 CFR 403.6).

The Commission conducted an informal review of industry practices by examining the advertising, labeling and marking of dry cell batteries available for retail sale. This review revealed no representations that the batteries were leakproof. The Commission's review, therefore, indicated general compliance with the Rule's provisions. Moreover, the Commission has no record of receiving any complaints regarding non-

compliance with the Rule, or of initiating any law enforcement actions alleging violations of the Rule.

Additionally, the Commission's review indicated general voluntary compliance by the industry with the requirements of American National Standards Institute ("ANSI") Standard C18.1M-1992 Dry Cells and Batteries—Specifications. The ANSI standard contains specifications for dry cell batteries, and requirements for labeling the products and their packages. The ANSI standard requires the following information to be printed on the outside of each battery (when necessary, the standard permits some of this information to be applied to the unit package): (1) the name or trade name of the manufacturer; (2) the ANSI/National Electronic Distributors Association number, or some other identifying designation; (3) year and month, week or day of manufacture, which may be a code, or the expiration of a guarantee period, in a clear readable form; (4) the nominal voltage; (5) terminal polarity; and (6) warnings or cautionary notes where applicable.²

The ANSI standard recommends that dry cell battery manufacturers and sellers include on their products and packages several battery user guidelines and warnings that are relevant to this proceeding. They are: (1) although batteries basically are trouble-free products, conditions of abuse or misuse can cause leakage; (2) failure to replace all batteries in a unit at the same time may result in battery leakage; (3) mixing batteries of various chemical systems, ages, applications, types or manufacturers may result in poor device performance and battery leakage; (4) attempting to recharge a non-rechargeable battery is unsafe because it could cause leakage; (5) reverse insertion of batteries may cause charging, which may result in leakage; (6) devices that operate on either household current or battery power may subject batteries to a charging current, which may cause leakage; (7) do not store batteries or battery-powered equipment in high-temperature areas; and (8) do not dispose of batteries in fire.³ At a minimum, each dry cell battery and battery package inspected by Commission staff informed consumers that the batteries may explode or leak if recharged, inserted improperly, disposed of in fire, or mixed with different battery types.

Based on the foregoing, on March 25, 1997, the Commission published an Advance Notice of Proposed

Rulemaking ("ANPR") tentatively concluding that industry members that comply with the ANSI standard's point-of-sale disclosure requirements, of necessity, also are in compliance with the Rule. Accordingly, the Commission tentatively determined that the Dry Cell Battery Rule is no longer necessary, and sought comments on the proposed repeal of the Rule.⁴

The only comment received in response to the ANPR was submitted by the National Electrical Manufacturers Association ("NEMA"), a trade association representing all major U.S. manufacturers of dry cell batteries.⁵ NEMA supports repeal of the Commission's Dry Cell Battery Rule, indicating that it has been superseded effectively in the marketplace by ANSI Standard C18.1M-1992.⁶

Accordingly, after reviewing the comment submitted, and in light of ANSI Standard C18.1M-1992, the Commission has determined that the Dry Cell Battery Rule is no longer necessary.⁷ The Commission, therefore, seeks comments on the proposed repeal of the Dry Cell Battery Rule.

III. Rulemaking Procedures

The Commission finds that the public interest will be served by using expedited procedures in this proceeding. First, there do not appear to be any material issues of disputed fact to resolve in determining whether to repeal the Rule. Second, using expedited procedures will support the Commission's goal of eliminating obsolete or unnecessary regulations without an undue expenditure of resources, while ensuring that the public has an opportunity to submit data, views and arguments on whether the Commission should repeal the Rule.

The Commission, therefore, has determined, pursuant to 16 CFR 1.20, to use the procedures set forth in this notice. These procedures include: (1)

⁴ 62 FR 14050.

⁵ The comment submitted in response to the ANPR has been placed on the public record, and is filed as document number B21969700001. In today's notice, the comment is cited as NEMA, #1.

⁶ NEMA, #1.

⁷ Repealing the Dry Cell Battery Rule would eliminate the Commission's ability to obtain civil penalties for any future misrepresentations that dry cell batteries are leakproof. The Commission, however, has tentatively determined that repealing the Rule would not seriously jeopardize the Commission's ability to act effectively. Any significant problems that might arise could be addressed on a case-by-case basis under section 5 of the FTC Act, 15 U.S.C. 45, either administratively or through Section 13(b) actions, 15 U.S.C. 53(b), filed in federal district court. Prosecuting serious misrepresentations in district court allows the Commission to obtain injunctive relief as well as equitable remedies, such as redress or disgorgement.

¹ In accordance with section 18 of the FTC Act, 15 U.S.C. 57a, the Commission submitted this NPR to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate, and the Chairman of the Committee on Commerce, United States House of Representatives, 30 days prior to its publication in the **Federal Register**.

² See section 8.1 of ANSI Standard C18.1M-1992.

³ See section 7.5 of ANSI Standard C18.1M-1992.

publishing this Notice of Proposed Rulemaking; (2) soliciting written comments on the Commission's proposal to repeal the Rule; (3) holding an informal hearing, if requested by interested parties; (4) obtaining a final recommendation from staff; and (5) announcing final Commission action in a notice published in the **Federal Register**.

IV. Invitation To Comment And Questions For Comment

Interested persons are required to submit written data, views or arguments on any issue of fact, law or policy they believe may be relevant to the Commission's decision on whether to repeal the Rule. The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Commenters opposing the proposed repeal of the Rule should explain the reasons they believe the Rule is still needed and, if appropriate, suggest specific alternatives. Proposals for alternative requirements should include reasons and data that indicate why the alternatives would better protect consumers from unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45.

Although the Commission welcomes comments on any aspect of the proposed repeal of the Rule, the Commission is particularly interested in comments on questions and issues raised in this Notice. All written comments should state clearly the question or issue that the commenter is addressing.

Before taking final action, the Commission will consider all written comments timely submitted to the Secretary of the Commission and testimony given on the record at any hearings scheduled in response to requests to testify. Written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Federal Trade Commission, Public Reference Room, Room H-130, Sixth St. and Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-2222.

Questions

(1) Should the Dry Cell Battery Rule be kept in effect, or should it be repealed?

(2) What benefits do consumers derive from the Rule?

(3) How would repealing the Rule affect the benefits experienced by consumers?

(4) How would repealing the Rule affect the benefits and burdens experienced by firms that must comply with the Rule?

(5) Are "leakproof" or "guaranteed leakproof" representations a significant problem in the marketplace?

(6) Are there any other federal, state, or local laws or regulations, or private industry standards, that eliminate the need for the Rule?

(7) Does the existence of ANSI Standard C18.1M-1992 for Dry Cell Batteries eliminate or greatly lessen the need for the Rule?

V. Requests for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like to present testimony at a public hearing, he or she should follow the procedures set forth in the **DATES** and **ADDRESSES** sections of this notice.

VI. Preliminary Regulatory Analysis

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-12, requires an analysis of the anticipated impact of the proposed repeal of the Rule on small businesses.⁸ The analysis must contain, as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed action, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules which may duplicate, overlap or conflict with the proposed action, and any significant alternatives to the proposed action that accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the

⁸ Section 22 of the FTC Act, 15 U.S.C. 57b-3, also requires the Commission to issue a preliminary regulatory analysis relating to proposed rules when the Commission publishes a notice of proposed rulemaking. The Commission has determined that a preliminary regulatory analysis is not required by section 22 in this proceeding because the Commission has no reason to believe that repeal of the Rule: (1) will have an annual effect on the national economy of \$100,000,000 or more; (2) will cause a substantial change in the cost or price of goods or services that are used extensively by particular industries, that are supplied extensively in particular geographical regions, or that are acquired in significant quantities by the Federal Government, or by State or local governments; or (3) otherwise will have a significant impact upon persons subject to the Rule or upon consumers.

objectives of the proposed repeal of the Rule have been explained elsewhere in this Notice. Repeal of the Rule would appear to have little or no effect on any small business. The Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule.

For these reasons, the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that if the Commission determines to repeal the Rule, that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

VII. Paperwork Reduction Act

The Dry Cell Battery Rule imposes no third-party disclosure requirements that constitute "information collection requirements" under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Since 1964, therefore, the Rule has imposed no paperwork burdens on marketers of dry cell batteries. In any event, repeal of the Dry Cell Battery Rule would permanently eliminate any burdens on the public imposed by the Rule.

VIII. Additional Information for Interested Persons

A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

B. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission's Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are

promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

Authority: 15 U.S.C. 41-58.

List of Subjects in 16 CFR Part 403

Advertising, Dry cell batteries, Labeling, Trade practices.

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 97-21922 Filed 8-18-97; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 118

RIN 1515-AC07

Centralized Examination Stations

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations regarding the establishment and scope of operation of Centralized Examination Stations (CESs). To reflect Customs interest in maximizing compliance with export control laws and regulations without unduly impeding the movement of outbound merchandise, it is proposed to expand the definition of a CES to allow merchandise intended to be exported as well as imported merchandise to be handled by a CES. Further, Customs is proposing to allow for the inspection of outbound cargo at CESs at ports other than the shipment's designated port of exit. To make the CES application procedure more amenable to local conditions, Customs is proposing more flexibility regarding the time frame for an applicant to conform a facility to meet Customs security or other physical or equipment requirements. Lastly, Customs is proposing to amend one of the criteria on the application to operate a CES because Customs believes it is too subjective. These changes are proposed in order to keep the CES program responsive to both Customs and the trade community's demands for the

facilitated examinations of trade merchandise.

DATES: Comments must be received on or before October 20, 1997.

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

FOR FURTHER INFORMATION CONTACT:

For Policy Inquiries: Steven T. Soggin, Office of Field Operations, Trade Compliance, (202) 927-0765;

For Legal Inquiries: Jerry Laderberg, Office of Regulations and Rulings, Entry Procedures and Carriers Branch, (202) 482-7052.

SUPPLEMENTARY INFORMATION:

Background

In T.D. 93-6 (58 FR 5596) Customs amended the Customs Regulations (19 CFR Chapter 1) to create a new Part 118 that set forth the regulatory framework for the establishment, operation, and termination of Centralized Examination Stations (CESs). A CES is a privately-operated facility, not in the charge of a Customs officer, at which imported merchandise is made available to Customs officers for physical examination.

Currently, CESs are authorized to provide inspectional facilities for Customs officers to examine only imported merchandise. However, because merchandise intended to be *exported* often is required to be examined, Customs would like CESs to be authorized to provide inspectional facilities for this merchandise as well. Customs has statutory authority to inspect merchandise intended to be exported pursuant to 22 U.S.C. 401, concerning the exportation of munitions and other articles, and 31 U.S.C. 5317, concerning the search and forfeiture of monetary instruments. Further, Customs broad authority to conduct warrantless examinations of outbound merchandise has long been recognized by the courts. *See e.g., United States v. Udofot*, 711 F.2d 831, 839 (8th Cir. 1983), *cert. denied*, 464 U.S. 896 (1983); *United States v. Ajlouny*, 629 F.2d 830, 834 (2d Cir. 1980), *cert. denied*, 449 U.S. 111 (1981); *United States v. Stanley, et al.*, 545 F.2d 661, 665-67 (9th Cir. 1976), *cert. denied*, 436 U.S. 917 (1978); *cf., California Bankers Ass'n v. Shultz*, 416 U.S. 21, 63 (1974). Accordingly, to reflect the authority to inspect merchandise intended to be exported, the authority citation for Part 118 is

revised. Also, Customs proposes to amend the first sentence of § 118.1 by removing the word "imported" to allow CESs to provide inspectional facilities for merchandise regardless of whether it is inbound or outbound.

Customs ability to inspect at inland ports shipments scheduled for export from another port is authorized at the functional equivalent of the border. *See, United States v. Udofot*, 711 F.2d 831 (8th Cir. 1983), *cert. denied*, 464 U.S. 896 (1983); *United States v. Hernandez-Salazar*, 813 F.2d 1126 (11th Cir. 1987). To conduct such inspections at locations other than the port of export, the exportation must be imminent and the goods committed to export. Accordingly, should a carrier, freight forwarder, or shipper wish to have its shipment inspected at a CES at a port other than the designated port of export, sufficient evidence that exportation is imminent and that the goods are committed to export must be made available to Customs. Alternatively, evidence of the shipper's consent to Customs inspection at an inland port may be presented. To advise the exporting community of Customs requirements for inspecting merchandise declared for export at a port other than the port of exit, Customs proposes to further amend § 118.1 by adding a new sentence at the end that provides that either proof of the shipper's consent to the inspection must be furnished or transportation documents must accompany outbound shipments to evidence that the exportation of the goods is imminent and that the goods are committed to export.

Pursuant to the provisions of 19 CFR 118.4(g), the CES operator is required to maintain a custodial bond. The terms and conditions of the custodial bond obligate the bond principal to accept only merchandise authorized under Customs Regulations (see 19 CFR 113.63(a)(2)), and keep safe any merchandise placed in its custody (see 19 CFR 113.63(b)(2)). A proposed amendment to § 118.4(g) makes it clear that the CES operator is authorized to accept and must keep safe all merchandise that is delivered for examination. Accordingly, the custodial bond will guarantee the receipt and safekeeping of merchandise delivered for an import or export examination.

Regarding the application procedure to operate a CES, paragraph (b) of § 118.11 currently provides that where a significant capital expenditure would be required in order for an existing facility to meet security or other physical or equipment requirements necessary for the CES operation, an applicant may