



# Register Federal

## highlights

### LIST OF PUBLIC LAWS

Complete list of Public Laws for the 2d session, 95th Congress  
(Part II of this issue) ..... 56763

### MAKING GOVERNMENT REGULATIONS

OFR considers the development of an educational program;  
comments by 2-5-79 ..... 56727

### YOUTH CORRECTIONS ACT

Justice/U.S. Parole Commission proposes that decision-making  
guidelines be applied to any prisoner under the age of 22 at  
time of conviction; comments by 2-1-79 ..... 56681

### U.S. MERCHANT MARINE ACADEMY

Commerce/MA increases pay received by midshipmen while  
assigned to vessels for sea year training; effective 1-20-79 ... 56663

### PHYSICAL FITNESS FACILITIES

GSA/PBS develops criteria for evaluating Federal agency  
requests for installation in federally controlled space; effective  
12-4-78 ..... 56733

### PRIVACY ACT

DOT/Office of the Secretary proposes to revise regulations  
regarding medical records, to add exemptions pertaining to  
FAA and NHTSA records and to delete exemption affecting  
CG Marine Pollution Gas Files; comments by 1-18-79 ..... 56682

### PROCEEDINGS

FTC revises rules governing discovery and amends rules  
regarding information to be submitted when objecting to de-  
mands for information; effective 12-4-78 and 1-18-79 (2  
documents) (Part VI of this issue) ..... 56862

### BUSINESS INVESTMENT COMPANIES

DOT/FRA notifies review of applications for the purchase by  
the U.S. of redeemable preferred stock ..... 56744

### HIGHWAYS

DOT/FHWA amends regulations regarding design standards;  
comments by 3-5-79 ..... 56660

### NEW PNEUMATIC TIRES FOR PASSENGER CARS

DOT/NHTSA amends Federal Motor Vehicle Safety Standard  
No. 109; effective 1-3-79 ..... 56668

### MOTOR VEHICLE CHILD SEATING SYSTEMS

DOT/NHTSA extends comment period on proposal for certain  
test dummies; comments by 1-5-79 ..... 56697

### MONO-HULL BOATS

DOT/CG establishes performance specifications for flotation  
materials to those under 20 feet in length; effective 8-1-79  
(Part V of this issue) ..... 56858

CONTINUED INSIDE

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

**NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.**

**federal register**

Area Code 202 Phone 523-5240



Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

## INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202-523-5240**.

### FEDERAL REGISTER, Daily Issue:

Subscription orders (GPO) .....	202-783-3238
Subscription problems (GPO).....	202-275-3050
"Dial - a - Reg" (recorded summary of highlighted documents appearing in next day's issue).	
Washington, D.C. ....	202-523-5022
Chicago, Ill .....	312-663-0884
Los Angeles, Calif .....	213-688-6694
Scheduling of documents for publication.	202-523-3187
Photo copies of documents appearing in the Federal Register.	523-5240
Corrections .....	523-5237
Public Inspection Desk.....	523-5215
Finding Aids .....	523-5227
<b>Public Briefings: "How To Use the Federal Register."</b>	523-5235
<b>Code of Federal Regulations (CFR)..</b>	523-3419
	523-3517
Finding Aids .....	523-5227

### PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents .....	523-5235
Index.....	523-5235

### PUBLIC LAWS:

Public Law dates and numbers.....	523-5266
	523-5282
Slip Laws .....	523-5266
	523-5282
U.S. Statutes at Large.....	523-5266
	523-5282
Index.....	523-5266
	523-5282

### U.S. Government Manual .....

523-5230

### Automation .....

523-3408

### Special Projects .....

523-4534

## HIGHLIGHTS—Continued

### RADIATION PROTECTION STANDARDS

NRC proposes to amend regulations to require that licensees obtain approval prior to burying small quantities of radionuclides; comments by 2-2-79 ..... **56677**

### MOBILE OFFSHORE DRILLING UNITS

DOT/CG issues regulations governing inspection, certification, design, equipment, and operation; effective 1-3-79 (Part III of this issue) ..... **56788**

### OFFSHORE OIL POLLUTION LIABILITY AND COMPENSATION

DOT/CG proposes regulations implementing parts of Title III of the Outer Continental Shelf Lands Act Amendments of 1978; comments by 1-18-79; hearings on 1-4 and 1-8-79 (Part IV of this issue)..... **56840**

### ASBESTOS

DOT/MTB amends regulations regarding fiber shipments in commercial transportation; effective 4-30-79 ..... **56664**

### MAJOR FUEL BURNING INSTALLATION/POWERPLANT

DOE/ERA requests public comment on petition forms for existing facility classification; comments by 1-15-79 ..... **56703**

### APPLICATIONS

USDA/FmHA amends regulations pertaining to receiving and processing procedures; effective 12-4-78 ..... **56642**

### TOBACCO

USDA/CCC establishes 1978 co-op grade loan rates for fire-cured, dark air-cured, and Virginia sun-cured; effective 12-1-78 ..... **56637**

### EXPORT LICENSES

Commerce/ITA amends rules to grant extended validity periods when requested and justified by an applicant; effective 12-4-78 ..... **56648**

### SPECIAL LICENSING PROCEDURES

Commerce/ITA consolidates three forms into one to be used by foreign consignees of U.S. exporters; effective 12-4-78..... **56649**

### IMPORTED MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT

Treasury/Customs amends regulations governing entry procedures into the U.S.; effective 1-3-79 ..... **56655**

### BROMINE AND BROMINATED COMPOUNDS FROM ISRAEL

Treasury/Customs issues countervailing duty determination; effective 12-4-78 ..... **56746**

### IMPROVING GOVERNMENT REGULATIONS

GSA issues directive implementing Executive Order 12044; effective 12-1-78 ..... **56728**  
TVA issues semiannual agenda of significant regulations ..... **56743**

### HEARING—

ITC: Rayon staple fiber from France and Finland, 1-4-79 ... **56735**

**HIGHLIGHTS—Continued**

**CHANGED MEETING—**

HEW/NIH: National Arthritis Advisory Board, 12-7-78 ..... **56734**

**MEETINGS—**

Commerce/NOAA: Pacific Fishery Management Council, Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development Team, Groundfish Advisory Subpanel, 12-5 through 12-7-78..... **56701**  
 CPSC: Product Safety Advisory Council, 12-18 and 12-19-78 ..... **56702**  
 DOD: Working Group D of the DOD Advisory Group on Electron Devices, 1-18 and 1-19-79..... **56702**  
 DOT/NHTSA: Safety belt comfort, convenience and usage in U.S., 12-15-78..... **56744**  
 HEW/NIH: National Diabetes Advisory Board, 12-7-78 ..... **56734**

Justice: Seventh Circuit Panel of the United States Circuit Judge Nominating Commission, 12-15-78..... **56735**  
 National Transportation Policy Study Commission, 12-14-78 ..... **56736**  
 Trade Negotiations, Office of Special Representative: Trade Negotiations Advisory Committee, 12-11-78..... **56739**  
 Treasury/Comptroller: Fair Housing Lending Enforcement, 12-14-78 ..... **56746**

**SEPARATE PARTS OF THIS ISSUE**

Part II, Complete list of Public Laws for the 2d session, 95th Congress ..... **56763**  
 Part III, DOT/CG ..... **56788**  
 Part IV, DOT/CG ..... **56840**  
 Part V, DOT/CG ..... **56858**  
 Part VI, FTC ..... **56862**

# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**Rules Going Into Effect Today**

HEW/Office of Child Support Enforcement—  
 Good cause for refusing to cooperate, Child Support Enforcement Program..... 45751;  
 10-3-78  
 SSA—Good cause for refusing to cooperate, special provisions applicable to title IV-A of the Social Security Act ..... 45742; 10-3-78  
 PS—Postal and post cards; clarification of requirements and restrictions on use .. 51016;  
 11-2-78

**List of Public Laws**

All public laws from the second session of the 95th Congress have been received and assigned law numbers by the Office of the Federal Register. The last continuing listing appeared in the issue of November 15, 1978. A complete listing for the full session is published as Part II of today's issue.

# contents

## AGRICULTURE DEPARTMENT

See also Commodity Credit Corporation; Farmers Home Administration; Forest Service.

### Rules

Authority delegations by Secretary and General Officers: Economics, Cooperatives, and Statistics Service, Administrator; farmer cooperatives.. 56637

## ALCOHOL, TOBACCO AND FIREARMS BUREAU

### Notices

Authority delegations: Assistant Director, Regulatory Enforcement; activities at breweries and pilot brewing plants ..... 56745

## ARMY DEPARTMENT

### Rules

National Cemetery, Arlington; bicycle restrictions ..... 56661

## CIVIL AERONAUTICS BOARD

### Notices

Meetings; Sunshine Act (6 documents) ..... 56753-56755

## COAST GUARD

### Rules

Boating safety: Boats and associated equipment; flotation standards .... 56858  
Drilling units, mobile offshore; requirements ..... 56788

### Proposed Rules

Marine oil; pollution liability and compensation: Offshore oil pollution compensation fund ..... 56840

## COMMERCE DEPARTMENT

See also Industry and Trade Administration; Maritime Administration; National Oceanic and Atmospheric Administration.

## COMMODITY CREDIT CORPORATION

### Rules

Loan and purchase programs: Tobacco ..... 56637

## COMPTROLLER OF CURRENCY

### Meetings:

Fair housing lending enforcement program ..... 56746

## CONSUMER PRODUCT SAFETY COMMISSION

### Notices

Meetings: Product Safety Advisory Council ..... 56702

## CUSTOMS SERVICE

### Rules

Merchandise, special classes: Motor vehicles and equipment ..... 56655

## Notices

Countervailing duty petitions and preliminary determinations: Bromine and brominated compounds from Israel ..... 56746

## DEFENSE DEPARTMENT

See also Army Department.

### Notices

Meetings: Electron Devices Advisory Group ..... 56702  
Privacy Act; system of records; annual publication; correction ..... 56703

## DELAWARE RIVER BASIN COMMISSION

### Rules

Basin regulations: Water supply charges ..... 56654

## ECONOMIC REGULATORY ADMINISTRATION

### Notices

Powerplant and major fuel burning installation petitions for existing facility classification; forms, inquiry ..... 56703

## ENERGY DEPARTMENT

See Economic Regulatory Administration; Federal Energy Regulatory Commission.

## ENVIRONMENTAL PROTECTION AGENCY

### Rules

Air quality implementation plans; approval and promulgation; various States, etc.: District of Columbia ..... 56662  
Toxic substances:

Health and safety study reporting; submittal of studies for consideration by TSCA Interagency Testing Committee; correction ..... 56663

### Notices

Environmental statements; availability, etc.: Agency statements, weekly receipts ..... 56722

Toxic and hazardous substances control:

Health and safety studies, denial of petition by Manufacturing Chemists Association ..... 56724

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### Notices

Meetings; Sunshine Act ..... 56755

## FARMERS HOME ADMINISTRATION

### Rules

Loan and grant programs (individual): Applications, processing and receiving ..... 56642

## FEDERAL AVIATION ADMINISTRATION

### Rules

Airworthiness directives: Bell ..... 56647  
Restricted areas ..... 56648

### Proposed Rules

Restricted areas ..... 56680  
Transition areas (2 documents) ..... 56678, 56680  
VOR Federal airways ..... 56679

## FEDERAL COMMUNICATIONS COMMISSION

### Notices

Meetings; Sunshine Act (2 documents) ..... 56755

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notices

Meetings; Sunshine Act (2 documents) ..... 56755, 56756

## FEDERAL ENERGY REGULATORY COMMISSION

### Notices

Meetings; Sunshine Act ..... 56756  
Natural gas companies: Small producer certificates, applications ..... 56720

## FEDERAL HIGHWAY ADMINISTRATION

### Rules

Engineering and traffic operations: Highway design standards ..... 56660

## FEDERAL RAILROAD ADMINISTRATION

### Notices

Preference share financing applications: Fulcrum Venture Capital Corp., et al ..... 56744

## FEDERAL REGISTER OFFICE

### Notices

Rulemaking process, educational program; inquiry ..... 56727

## FEDERAL TRADE COMMISSION

### Rules

Procedures and practice rules: Compulsory process motions to quash ..... 56868  
Discovery rules ..... 56862  
Prohibited trade practices: Bede Aircraft, Inc., et al ..... 56653

### Notices

Meetings; Sunshine Act (2 documents) ..... 56757

## FOREST SERVICE

### Notices

Environmental statements, availability, etc.: Gunnison National Forest, Colo ..... 56699

## GENERAL SERVICES ADMINISTRATION

See also Federal Register Office.

### Notices

Improving Government regulations; final report ..... 56728

**CONTENTS**

Privacy Act; systems of records.....	56733	Motor carriers: Charter operations utilizing school buses; Barker's School Bus Service, Inc.....	56747	<b>NATIONAL INSTITUTES OF HEALTH</b>
Public buildings and space; physical fitness facilities, installation.....	56733	Transfer proceedings.....	56751	<b>Notices</b>
<b>HEALTH, EDUCATION, AND WELFARE DEPARTMENT</b>		Railroad car service orders; various companies: St. Louis Southwestern Railway Co. et al.....	56752	<b>Meetings:</b>
See National Institutes of Health.		Railroad freight rates and charges; various States, etc.: Montana.....	56750	Arthritis National Advisory Board.....
<b>INDIAN AFFAIRS BUREAU</b>				56734
<b>Notices</b>		<b>JUSTICE DEPARTMENT</b>		Diabetes National Advisory Board.....
Irrigation projects, operation and maintenance charges: Wapato, Wash.....	56734	See also Law Enforcement Assistance Administration; Parole Commission.		56734
<b>INDUSTRY AND TRADE ADMINISTRATION</b>		<b>Notices</b>		<b>NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION</b>
<b>Rules</b>		<b>Meetings:</b>		<b>Notices</b>
Export licensing: Export clearance; corrections to shipper's export declarations; correction.....	56653	Circuit Judge Nominating Commission, U.S.....	56735	<b>Meetings:</b>
Individual validated licenses; requests for extended validity period.....	56648			Pacific Fishery Management Council.....
Special licensing procedures; forms consolidation.....	56649	<b>LAW ENFORCEMENT ASSISTANCE ADMINISTRATION</b>		56701
Technical data; editorial amendments.....	56650	<b>Notices</b>		<b>NUCLEAR REGULATORY COMMISSION</b>
<b>Notices</b>		Grants solicitation, competitive research: Criminal justice action programs, evaluations.....	56736	<b>Proposed Rules</b>
Scientific articles; duty free entry: National Institutes of Health.....	56699			Radiation protection standards: Radionuclides; burial of small quantities.....
Tufts University.....	56701	<b>MARITIME ADMINISTRATION</b>		56677
University of Tennessee.....	56699	<b>Rules</b>		<b>Notices</b>
<b>INTERIOR DEPARTMENT</b>		Merchant marine training: Admission and training of midshipmen; pay allowances.....	56663	<b>Meetings; Sunshine Act.....</b>
See Indian Affairs Bureau.				56758
<b>INTERNATIONAL TRADE COMMISSION</b>		<b>MANAGEMENT AND BUDGET OFFICE</b>		<b>PAROLE COMMISSION</b>
<b>Notices</b>		<b>Notices</b>		<b>Proposed Rules</b>
Import investigations: Rayon staple fiber from France et al.....	56735	Clearance of reports; list of requests (2 documents).....	56736, 56737	Prisoners, youth offenders, and juvenile delinquents; parole, release, etc.: Youth Corrections Act, prisoners sentenced under.....
Meetings; Sunshine Act.....	56758	Privacy Act; systems of records.....	56738	56681
<b>INTERSTATE COMMERCE COMMISSION</b>		<b>MATERIALS TRANSPORTATION BUREAU</b>		<b>SECURITIES EXCHANGE COMMISSION</b>
<b>Rules</b>		<b>Rules</b>		<b>Notices</b>
Railroad car service orders: Freight car movement.....	56674	Hazardous materials table and communications regulations, shippers, etc.: Asbestos.....	56664	<i>Hearings; etc.:</i> Connecticut Light & Power Co. et al.....
Freight cars, demurrage and free time.....	56672			56742
Freight cars, distribution.....	56673	<b>MINE SAFETY AND HEALTH FEDERAL REVIEW COMMISSION</b>		International Investors Inc. et al.....
Grain cars, distribution.....	56672	<b>Proposed Rules</b>		56740
Hopper cars, substitution.....	56675	Procedural rules, extension of comment period.....	56682	<b>TENNESSEE VALLEY AUTHORITY</b>
Hopper cars; unit-grain-trains of less than number of cars required by tariffs.....	56675	<b>Notices</b>		<b>Notices</b>
Multiple-car shipments transporting less than minimum quantities.....	56674	Meetings; Sunshine Act.....	56757	Regulatory agenda, semi-annual.....
Railroad car service orders; various companies: Burlington Northern Inc.....	56671	<b>NATIONAL ARCHIVES AND RECORDS SERVICE</b>		56743
Chicago & North Western Transportation Co. (2 documents).....	56671, 56673	See Federal Register Office.		<b>TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE</b>
North Stratford Railroad Corp.....	56673	<b>NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION</b>		<b>Notices</b>
<b>Notices</b>		<b>Rules</b>		<b>Meetings:</b>
Fourth section applications for relief.....	56750	Motor vehicle safety standards: Tires, new pneumatic, for passenger cars.....	56668	Trade Negotiations Advisory Committee.....
Hearing assignments.....	56747			56739
Meetings; Sunshine Act.....	56758	<b>Proposed Rules</b>		<b>TRANSPORTATION DEPARTMENT</b>
		Child restraint systems; anthropomorphic test dummies representing 3-year-old children.....	56697	See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Materials Transportation Bureau; National Highway Traffic Safety Administration.
		<b>Notices</b>		<b>Proposed Rules</b>
		<b>Meetings:</b>		Privacy Act; implementation.....
		Safety belt usage and comfort and convenience of safety belts in cars.....	56744	56682
				<b>TRANSPORTATION POLICY STUDY, NATIONAL COMMISSION</b>
				<b>Notices</b>
				<b>Meetings.....</b>
				56736
				<b>TREASURY DEPARTMENT</b>
				See Alcohol, Tobacco and Firearms Bureau; Comptroller of Currency; Customs Service.

# list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.  
 A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

<b>7 CFR</b>		<b>18 CFR</b>		<b>46 CFR</b>	
2.....	56637	420.....	56654	50.....	56798
1464.....	56637			54.....	56798
1801.....	56643	<b>19 CFR</b>		56.....	56798
1822.....	56643	12.....	56655	58.....	56799
1910.....	56643	<b>23 CFR</b>		61.....	56800
1945.....	56643	625.....	56660	107.....	56801
<b>10 CFR</b>		<b>28 CFR</b>		108.....	56807
<b>PROPOSED RULES:</b>		<b>PROPOSED RULES:</b>		109.....	56821
20.....	56677	2.....	56681	110.....	56837
<b>14 CFR</b>		<b>29 CFR</b>		111.....	56837
39.....	56647	<b>PROPOSED RULES:</b>		112.....	56838
71.....	56648	2700.....	56682	113.....	56838
73.....	56648	<b>32 CFR</b>		310.....	56663
<b>PROPOSED RULES:</b>		553.....	56661	<b>49 CFR</b>	
71 (3 documents).....	56678-56680	<b>33 CFR</b>		172.....	56666
73.....	56680	183.....	56858	173.....	56668
<b>15 CFR</b>		<b>PROPOSED RULES:</b>		174.....	56668
372.....	56648	130.....	56840	175.....	56668
373.....	56649	131.....	56840	176.....	56668
379.....	56650	<b>40 CFR</b>		177.....	56668
386.....	56653	52.....	56662	571.....	56668
<b>16 CFR</b>		730.....	56663	1033 (11 documents).....	56671-56675
1.....	56888			<b>PROPOSED RULES:</b>	
2.....	56888			10.....	56682
3.....	56862			571.....	56697
4.....	56888			572.....	56697
13.....	56653				

**CUMULATIVE LIST OF CFR PARTS AFFECTED DURING DECEMBER**

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during December.

<b>1 CFR</b>		<b>16 CFR</b>		<b>32 CFR</b>	
Ch. I.....	56203	1.....	56888	553.....	56661
<b>5 CFR</b>		2.....	56888	<b>33 CFR</b>	
213.....	56203, 56204	3.....	56862	183.....	56858
<b>7 CFR</b>		4.....	56888	<b>PROPOSED RULES:</b>	
2.....	56204, 56637	13.....	56653	130.....	56840
16.....	56205	<b>17 CFR</b>		131.....	56840
403.....	56205	<b>PROPOSED RULES:</b>		<b>39 CFR</b>	
722.....	56212	240.....	56247	111.....	56224
910.....	56212	<b>18 CFR</b>		<b>40 CFR</b>	
1464.....	56643	2.....	56448, 56536	52.....	56662
1801.....	56643	154.....	56220	65.....	56225, 56226
1822.....	56643	157.....	56448	730.....	56663
1910.....	56643	270.....	56448, 56458, 56544	<b>PROPOSED RULES:</b>	
1945.....	56643	271.....	56448, 56464, 56551	50.....	56250
2859.....	56212	273.....	56448, 56493, 56577	<b>45 CFR</b>	
<b>PROPOSED RULES:</b>		274.....	56448, 56503, 56586	<b>PROPOSED RULES:</b>	
1701.....	56244	275.....	56448, 56513, 56608	90.....	56428
2852.....	56244, 56245	276.....	56448, 56517, 56613	<b>46 CFR</b>	
<b>9 CFR</b>		284.....	56448, 56521, 56622	50.....	56798
3.....	56213	420.....	56654	54.....	56798
78.....	56218	<b>19 CFR</b>		56.....	56798
<b>PROPOSED RULES:</b>		12.....	56655	58.....	56799
445.....	56245	<b>21 CFR</b>		61.....	56800
447.....	56245, 56247	558.....	56222	107.....	56801
<b>10 CFR</b>		<b>PROPOSED RULES:</b>		108.....	56807
<b>PROPOSED RULES:</b>		175.....	56247	109.....	56821
20.....	56677	189.....	56247	110.....	56837
<b>13 CFR</b>		352.....	56249	111.....	56837
309.....	56220	436.....	56249	112.....	56838
<b>14 CFR</b>		446.....	56249	113.....	56838
39.....	56647	<b>23 CFR</b>		310.....	56663
71.....	56648	625.....	56660	<b>49 CFR</b>	
73.....	56648	<b>25 CFR</b>		172.....	56666
<b>PROPOSED RULES:</b>		<b>PROPOSED RULES:</b>		173.....	56668
71.....	56678-56680	32a.....	56249	174.....	56668
73.....	56680	<b>26 CFR</b>		175.....	56668
<b>15 CFR</b>		31.....	56223	176.....	56668
372.....	56648	<b>28 CFR</b>		177.....	56668
373.....	56649	<b>PROPOSED RULES:</b>		571.....	56668
379.....	56650	2.....	56681	1033.....	56671-56675
386.....	56653	<b>29 CFR</b>		<b>PROPOSED RULES:</b>	
		<b>PROPOSED RULES:</b>		10.....	56682
		2700.....	56682	571.....	56697
		<b>30 CFR</b>		572.....	56697
		<b>PROPOSED RULES:</b>			
		715.....	56425		

**FEDERAL REGISTER PAGES AND DATES—DECEMBER**

<i>Pages</i>	<i>Date</i>
56203-56636 .....	Dec. 1
56637-56868 .....	4

# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-01-M]

## Title 7—Agriculture

### SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

#### PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

##### Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: Authority is delegated to the Administrator, Economics, Cooperatives, and Statistics Service to work with institutions and international organizations throughout the world in the fields of agricultural economics research and research relating to the economic and marketing aspects of farmer cooperatives. This may be carried out through exchanges of research materials or results, through joint or coordinated research, or by stationing ESCS scientists at such institutions or organizations in foreign countries.

EFFECTIVE DATE: December 4, 1978.

##### FOR FURTHER INFORMATION CONTACT:

James L. Fulton, Office of the Deputy Administrator for Management, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202) 447-7392.

Part 2, Subtitle A, Title, Code of Federal Regulations is amended as follows:

##### Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of the Governmental and Public Affairs.

1. Section 2.27 is amended by adding a new paragraph (b)(14) to read as follows:

§ 2.27 Delegations of Authority to the Director of Economics, Policy Analysis and Budget.

\* \* \* \* \*

(b) *Related to farmer cooperatives, economics research, and statistical reporting* \* \* \*

(14) Work with institutions and international organizations throughout the world in the fields of agricultural economics research and research relating to the economic and marketing aspects of farmer cooperatives. Such work may be carried out by:

(i) Exchanging research materials and results with such institutions or organizations,

(ii) Engaging in joint or coordinated research, or

(iii) Stationing scientists at such institutions or organizations in foreign countries (7 U.S.C. 3291).

\* \* \* \* \*

##### Subpart K—Delegations of Authority by the Director of Economics, Policy Analysis and Budget.

2. Section 2.85 is amended by adding a new paragraph (a)(14) to read as follows:

§ 2.85 Administrator, Economics, Statistics, and Cooperatives Service.

(a) \* \* \*

(14) Work with institutions and international organizations throughout the world in the fields of agricultural economics research and research relating to the economic and marketing aspects of farmer cooperatives. Such work may be carried out by:

(i) Exchanging research materials and results with such institutions or organizations,

(ii) Engaging in joint or coordinated research, or

(iii) Stationing scientists at such institutions or organizations in foreign countries (7 U.S.C. 3291).

\* \* \* \* \*

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953).

For Subpart C:

Dated: November 14, 1978.

BOB BERGLAND,  
Secretary of Agriculture.

For Subpart K:

Dated: November 14, 1978.

HOWARD W. HJORT,  
Director of Economics,  
Policy Analysis and Budget.

[FR Doc. 78-33821 Filed 12-1-78; 8:45 am]

[3410-05-M]

#### CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

##### PART 1464—TOBACCO

##### Subpart A—Tobacco Loan Program

1978 CROP GRADE LOAN RATES—FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED TOBACCO

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule established the schedule of grade loan rates which will apply to 1978 crop fire-cured, dark air-cured, and Virginia sun-cured tobacco. The rule is needed to provide the statutory levels of support for 1978-crop fire-cured, dark air-cured and Virginia sun-cured tobacco. Eligible tobacco of these types may be delivered for price support at the specified rates:

EFFECTIVE DATE: November 28, 1978.

##### FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, (202) 447-6695.

SUPPLEMENTARY INFORMATION: On September 28, 1978, notice was published in the FEDERAL REGISTER (43 FR 44542) inviting written comments, not later than November 27, 1978, on proposed schedules of grade loan rates for providing price support for 1978-crop fire-cured, dark air-cured and Virginia sun-cured tobacco at the statutory levels.

Section 106 of the Agricultural Act of 1949, as amended, prescribes a formula for computing, in cents per pound, the level of price support for each crop of tobacco for which marketing quotas are in effect or have not been disapproved by producers. Application of this formula, requires that the 1978 crop of fire-cured tobacco be supported at the level of 84.6 cents per pound, and that dark air-cured and Virginia sun-cured tobacco be supported at the level of 75.2 cents per pound. Price support will be provided through loans to producer associations which will receive eligible tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances will be based on the grade loan rates, which average the required level of support when weighted by estimated grade percentages, in accordance with section 403 of the Act. The price support advances for fire-cured, types 22-23, and dark air-cured tobacco will be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate. The price support advances for fire-cured, type 21 tobacco and Virginia sun-cured tobacco will be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the producers' association is authorized to deduct and to apply against overhead costs.

## DISCUSSION OF COMMENTS

No comments were received with re-

§ 1464.17 1978 Crop—Virginia Fire-Cured Tobacco, Type 21—Grade Loan Schedule.<sup>1</sup>

## LOAN RATE

[Dollars per hundred pounds, farm sales weight]

Grade	Length	Length	Length	Length	Length
	47	46	45	44	43
A1F.....	116	117	117		
A2F.....	113	114	114		
A1D.....	116	117	117		
A2D.....	113	114	114		
B1F.....	113	114	115		
B2F.....	110	111	112	107	
B3F.....	104	105	106	104	86
B4F.....	94	95	97	94	81
B5F.....	79	80	82	79	71
B1D.....	112	113	113		
B2D.....	106	107	108	103	
B3D.....	96	98	99	96	83
B4D.....	88	88	89	87	82
B5D.....	75	75	78	75	71
B3M.....	85	85	87	86	80
B4M.....	83	83	86	85	79
B5M.....	73	74	75	74	69
B3G.....	81	85	87	86	76
B4G.....	78	79	84	83	75
B5G.....	69	70	73	71	65
C1L.....	119	120	120		
C2L.....	115	116	118	105	
C3L.....	102	105	105	95	
C4L.....	88	89	90	88	
C5L.....	78	79	84	75	
C1F.....	119	120	120		
C2F.....	115	116	116	100	
C3F.....	104	105	105	91	
C4F.....	90	92	97	95	
C5F.....	79	81	83	79	
C2D.....	80	81	81	75	

spect to the schedules of loan rates proposed and, it has been decided to adopt the schedules proposed.

## FINAL RULE

Accordingly, 7 CFR Part 1464 is amended by revising §§ 1464.17 through 1464.20 to read as set forth below, effective for the 1978 crop of fire-cured, dark air-cured and Virginia sun-cured tobacco. The material previously appearing under §§ 1464.17 through 1464.20 remains applicable to the crop to which each refers.

(Secs. 4, 5, 62 Stat. 1070, as amended, (15 U.S.C. 714b, 714c), secs 101, 106, 401, 403, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421, 1423).)

NOTE: CCC has determined that this document does not contain a significant proposal having major economic consequences for the general economy requiring preparation of a regulatory analysis under Executive Order 12044.

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an Environmental Impact Statement need not be prepared since the proposal will have no significant effect on the quality of the human environment.

Signed at Washington, D.C. on November 27, 1978.

RAY FITZGERALD,  
Executive Vice President,  
Commodity Credit Corporation.

LOAN RATE—Continued

[Dollars per hundred pounds, farm sales weight]

Grade	Length				
	47	46	45	44	43
C3D.....	74	75	76	72	.....
C4D.....	70	71	72	71	.....
C5D.....	64	65	66	64	.....
C3M.....	84	85	87	85	.....
C4M.....	80	82	86	84	.....
C5M.....	68	69	71	69	.....
C3G.....	72	73	74	71	.....
C4G.....	67	68	69	68	.....
C5G.....	65	66	67	65	.....

Grade	Grade	Grade	Grade	Grade
X1L.....	94	X1D	88	X3G 78
X2L.....	93	X2D	86	X3G 45 75
X3L.....	90	X3D	84	X4G 75
X4L.....	83	X4D	78	X4G 45 72
X5L.....	78	X5D	73	X5G 64
X1F.....	94	X3M	78	X5G 45 63
X2F.....	93	X3M	45 76	NIL 57
X3F.....	90	X4M	76	NID 54
X4F.....	83	X4M	45 73	NIG 58
X5F.....	78	X5M	66	N2 39
		X5M	45 65	.....

<sup>1</sup>Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The Association is authorized to deduct \$1 per hundred pounds to apply against overhead cost.

§ 1464.18 1978—Crop—Kentucky-Tennessee Fire-Cured Tobacco, Types 22 and 23—Grade Loan Schedule.<sup>2</sup>

LOAN RATE

[Dollars per hundred pounds, farm sales weight]

Grade	Length				
	47	46	45	44	Length
A1F.....	126	126	126	.....	.....
A2F.....	121	121	121	.....	.....
A3F.....	113	113	113	.....	.....
A1D.....	126	126	126	.....	.....
A2D.....	121	121	121	.....	.....
A3D.....	113	113	113	.....	.....
B1F.....	109	109	109	104	.....
B2F.....	104	104	104	100	.....
B3F.....	100	100	100	97	91
B4F.....	91	91	91	88	81
B5F.....	87	87	87	84	78
B1D.....	108	108	108	103	.....
B2D.....	103	103	103	99	.....
B3D.....	100	100	100	96	90
B4D.....	92	92	92	89	82
B5D.....	84	84	84	80	74
B3M.....	88	88	88	84	79
B4M.....	81	81	81	77	70
B5M.....	76	76	76	71	66
B3VF.....	86	86	86	82	75
B4VF.....	84	84	84	81	74
B5VF.....	80	80	80	77	70
B3G.....	86	86	86	82	74
B4G.....	81	81	81	77	69
B5G.....	74	74	74	69	64
C1L.....	109	109	109	105	.....
C2L.....	106	106	106	103	.....
C3L.....	100	100	100	96	90
C4L.....	96	96	96	93	87
C5L.....	93	93	93	91	84
C1F.....	105	105	105	101	.....
C2F.....	102	102	102	99	.....
C3F.....	99	99	99	96	89
C4F.....	92	92	92	89	82
C5F.....	90	90	90	86	79
C1D.....	109	109	109	104	.....
C2D.....	98	98	98	95	.....
C3D.....	92	92	92	89	83
C4D.....	84	84	84	82	76
C5D.....	79	79	79	77	70
C3M.....	88	88	88	85	79
C4M.....	82	82	82	81	75
C5M.....	80	80	80	78	69
C3VF.....	89	89	89	86	80
C4VF.....	86	86	86	84	78
C5VF.....	84	84	84	82	73
C3G.....	83	83	83	80	75
C4G.....	77	77	77	73	68
C5G.....	72	72	72	69	66

## RULES AND REGULATIONS

LOAN RATE—Continued  
(Dollars per hundred pounds, farm sales weight)

Grade	Advance Rate	Grade	Advance Rate
(Dollars per hundred pounds, farm sales weight)			
X1L.....	93	X1D.....	90
X2L.....	91	X2D.....	86
X3L.....	87	X3D.....	81
X4L.....	82	X4D.....	77
X5L.....	81	X5D.....	74
X1F.....	96	X3M.....	80
X2F.....	94	X4m.....	75
X3F.....	88	X5M.....	72
X4F.....	84		
X5F.....	82		
X3VF.....	81	NIL.....	70
X4VF.....	77	N1D.....	62
X5VF.....	73	N1G.....	58
X3G.....	78	N2.....	50
X4G.....	69		
X5G.....	65		

<sup>2</sup> Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable.

§ 1464.19 1978-Crop—Dark Air-Cured Tobacco, Type 35 and 36—Grade Loan Schedule.<sup>3</sup>

LOAN RATE

(Dollars per hundred pounds, farm sales weight)

Grade	Length			
	47	48	45	44
A1F.....	111	111	111	.....
A2F.....	107	107	107	.....
A3F.....	101	101	101	.....
A1R.....	111	111	111	.....
A2R.....	107	107	107	.....
A3R.....	101	101	101	.....
B1F.....	102	102	102	99
B2F.....	97	97	97	96
B3F.....	92	92	92	90
B4F.....	83	83	83	82
B5F.....	77	77	77	76
B1R.....	101	101	101	99
B2R.....	96	96	96	95
B3R.....	90	90	90	89
B4R.....	82	82	82	81
B5R.....	77	77	77	76
B1D.....	101	101	101	99
B2D.....	96	96	96	95
B3D.....	89	89	89	88
B4D.....	82	82	82	81
B5D.....	74	74	74	73
B3M.....	85	85	85	84
B4M.....	78	78	78	77
B5M.....	71	71	71	70
B3G.....	84	84	84	83
B4G.....	78	78	78	77
B5G.....	69	69	69	68
C1L.....	102	102	102	101
C2L.....	100	100	100	99
C3L.....	94	94	94	93
C4L.....	85	85	85	84
C5L.....	75	75	75	73
C1F.....	102	102	102	101
C2F.....	98	98	98	97
C3F.....	93	93	93	91
C4F.....	85	85	85	84
C5F.....	76	76	76	74
C1R.....	100	100	100	99
C2R.....	97	97	97	96
C3R.....	90	90	90	88
C4R.....	79	79	79	78
C5R.....	71	71	71	70
C3M.....	85	85	85	84
C4M.....	75	75	75	74
C5M.....	70	70	70	69
C3G.....	86	86	86	84
C4G.....	76	76	76	75
C5G.....	69	69	69	68

RULES AND REGULATIONS

56641

LOAN RATE—Continued

[Dollars per hundred pounds, farm sales weight]

Grade	Grade	Grade	Grade	Grade	
T3F.....	74	X1L	93	X3M	78
T4F.....	70	X2L	88	X4M	74
T5F.....	62	X3L	86	X5M	68
		X4L	83		
T3R.....	74	X5L	76	X3G	74
T4R.....	69			X4G	69
T5R.....	61	X1F	92	X5G	58
		X2F	87		
T3D.....	74	X3F	84	N1L	65
T4D.....	69	X4F	82	N2L	57
T5D.....	61	X5F	74	N1R	57
T3M.....	73	X1R	91	N2R	53
T4M.....	64	X2R	86		
T5M.....	59	X3R	80	N1G	54
		X4R	75	N2G	51
T3G.....	72	X5R	70		
T4G.....	65				
T5G.....	57	X3D	81		
		X4D	75		
		X5D	68		

\* Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), or scrap will not be accept. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such factor.

Grade	Advance Rate	Grade	Grade	Grade	
X3D.....	69	X3G	74	N1G	69
X4D.....	65	X4G	69	N2G	37
X5D.....	55	X5G	65		
X3M.....	78	N1R	49	N1L	53
X4M.....	75	N2R	41	N2L	43
X5M.....	73				

\* Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The association is authorized to deduct \$1 per hundred pounds to apply against overhead cost.

§ 1464.20 1978—Crop Virginia Sun-Cured Tobacco, Type 37—Grade Loan Schedule.<sup>4</sup>

[Dollars per hundred pounds, farm sales weight]

LOAN RATE

Grade	Length			Grade	Length		
	46	45	44		46	45	44
A1.....	106	106	101	B3G	81	81	79
A2F.....	101	101	98	B4G	71	73	70
A3F.....	99	98	96	B5G	67	67	66
A1R.....	105	105	101	C1L	101	102	92
A2R.....	101	101	95	C2L	97	98	90
A3R.....	95	95	93	C3L	93	94	89
				C4L	84	85	81
B1F.....	104	105	95	C5L	74	75	71
B2F.....	100	101	96				
B3F.....	95	96	90	C1F	102	103	93
B4F.....	89	90	86	C2F	99	100	91
B5F.....	76	77	74	C3F	93	94	88
				C4F	85	88	83
B1R.....	104	105	100	C5F	75	76	75
B2R.....	100	101	96				
B3R.....	91	92	90	C1R	93	93	87
B4R.....	88	89	83	C2R	87	87	83
B5R.....	73	74	72	C3R	78	78	75
				C4R	75	75	71
B1D.....	101	101	95	C5R	66	66	64
B2D.....	98	98	93				
B3D.....	90	90	85	C3M	76	77	76
B4D.....	80	80	75	C4M	69	72	69
B5D.....	73	75	70	C5M	65	68	66
B3M.....	81	81	79	C3G	66	67	65
B4M.....	76	76	74	C4G	63	65	64
B5M.....	69	69	66	C5G	57	60	58

## RULES AND REGULATIONS

## LOAN RATE—Continued

(Dollars per hundred pounds, farm sales weight)

Grade	Advance Rate	Grade	Advance Rate	Grade	Advance Rate
T1F	69	T3M	67	X1F	84
T1P	67	T4M	64	X2F	82
T1S	61	T5M	59	X3F	78
				X4F	75
T1R	70	T3G	69	X5F	68
T4R	67	T4G	67		
T5R	62	T5G	61	X1R	81
				X2R	80
T1D	67	X1L	82	X3R	74
T4D	65	X2L	81	X4R	72
T5D	59	X3L	77	X5R	65
		X4L	73		
		X5L	66		

Grade	Advance Rate	Grade	Grade	Advance Rate	
X1D	69	X3G	74	N1G	49
X1D	65	X4G	69	N2G	37
X1D	55	X5G	65		
X1M	78	N1R	49	N1L	52
X1M	75	N2R	41	N2L	43
X5M	73				

\*Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The association is authorized to deduct \$1 per hundred pounds to apply against overhead cost.

[FR Doc. 78-33671 Filed 11-28-78; 8:45 am]

[3410-07-M]

**CHAPTER XVIII—FARMERS HOME  
ADMINISTRATION, DEPARTMENT  
OF AGRICULTURE**

**SUBCHAPTER I—APPLICATIONS**

**EQUAL CREDIT OPPORTUNITY**

**Receiving and Processing  
Applications; Redesignation, Revision**

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

**SUMMARY:** The Farmers Home Administration (FmHA) amends its regulations concerning receiving and processing applications. This action is taken to incorporate and reflect certain requirements of the Equal Credit Opportunity Act, to change the criteria for establishing creditworthiness for FmHA applicants, and to redesignate these provisions as part of the general administrative reorganization of the Agency's regulations. The intended effect of this revision is to ensure that all FmHA loan applicants are being afforded an equal credit opportunity.

**EFFECTIVE DATE:** December 4, 1978.

**FOR FURTHER INFORMATION,  
CONTACT:**

Mrs. Nancy Monesson, Rural Housing Specialist, Single Family Loan Division, (202) 447-4295.

**SUPPLEMENTARY INFORMATION:** Subpart A of Part 1801, Subchapter A, Chapter XVIII, Title 7 Code of Federal Regulations has been revised and redesignated as Subpart A of Part 1910, Subchapter I, Chapter XVIII, Title 7 Code of Federal Regulations. Subpart A of Part 1801 is hereby deleted and reserved. FmHA is revising this Subpart to incorporate certain requirements of the Equal Credit Opportunity Act and is redesignating this Subpart as a part of an overall administrative restructuring of its program regulations. FmHA published a Notice of Proposed Rulemaking on August 30, 1978, (43 FR 38707) regarding this revision. Comments were received and accepted through October 2, 1978. A number of comments were received and given due consideration. As a result of these comments, changes have been made to more carefully reflect the requirements of Regulation B

which implements the Equal Credit Opportunity Act. Specific changes incorporated in the final rule are:

1. Section 1910.2 makes a stronger affirmation of FmHA's policy regarding nondiscrimination in accepting and processing applications.

2. Section 1910.3 further clarifies when information about a spouse or former spouse can be obtained.

3. Section 1910.4 is changed to re-enforce the requirements of Regulation B of EOCA regarding timeliness.

4. Section 1910.5 has been changed to read "Evaluating Applications." Accordingly, Chapter XVIII is amended as follows:

**PART 1801—RECEIVING AND PROCESSING APPLICATIONS**

1. Subpart A of Part 1801 is hereby deleted and reserved.

**PART 1822—RURAL HOUSING LOANS AND GRANTS**

**Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations**

2. Section 1822.5 *Veterans Preference* is revised as follows:

§ 1822.5 *Veterans Preference.*

Applications received from veterans and from spouses and children of deceased servicemen will be given preference in accordance with Section 1910.10.

§ 1822.11 [Amended]

3. In lines 7 and 8 of § 1822.11 paragraph (a) change the reference from "Subpart A of Part 1801 of this chapter" to "Part 1910, Subpart A".

**EXHIBIT B—[AMENDED]**

4. In Exhibit B, paragraph 2 (a)(1), lines 3 and 4, change the reference from "Subpart A of Part 1801 of this Chapter" to "Part 1910, Subpart A".

5. In Exhibit B, paragraph 3, lines 15 and 16, change the reference from "Subpart A of Part 1801 of this chapter", to "Part 1910, Subpart A".

**PART 1945—EMERGENCY**

**Subpart C—Economic Emergency Loans**

§ 1945.111 [Amended]

6. In § 1945.111, the introduction paragraph change the reference from "Part 1801 of this Chapter" to "Part 1910 Subpart A".

7. In § 1945.111 paragraph (a) change the reference from "Subpart A of Part 1801 of this Chapter" to "Part 1910 Subpart A".

**PART 1910—GENERAL**

8. As added, Subpart A of Part 1910 reads as follows:

**Subpart A—Receiving and Processing Applications**

- Sec.
- 1910.1 General.
- 1910.2 Equal Credit Opportunity Act (ECOA) and Regulation B.
- 1910.3 Receiving applications.
- 1910.4 Processing applications.
- 1910.5 Evaluating applications.
- 1910.6 Notification of applicant.
- 1910.7 Counseling.
- 1910.8 Reaching an understanding.
- 1910.9 Supplemental material to be provided by State Offices.
- 1910.10 Veterans' preference.
- 1910.11 Special Requirements.
- 1910.12-1910.50 [Reserved]

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

**Subpart A—Receiving and Processing Applications**

§ 1910.1 General.

This Subpart prescribes the policies and procedures for receiving and processing Section 502 and 504 Rural Housing (RH), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Operating (OL), Emergency (EM), Economic Emergency (EE), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Rural Housing Site (RHS) and Labor Housing (LH), loan and grant applications except as modified by program Regulations. It also prescribes policies for informing applicants and other interested individuals about the services of the Farmers Home Administration (FmHA).

(a) The County Supervisor will provide information about FmHA services to all persons making inquiry about FmHA programs. This information may be provided by individual interviews, correspondence, or distribution of pamphlets, leaflets, and other written statements.

(b) Wherever the term "applicant" appears in this Subpart, it shall be construed to mean applicant and/or co-applicant, if any.

§ 1910.2 Equal Credit Opportunity Act (ECOA) and Regulation B.

ECOA as amended, prohibits discrimination in credit based on sex, marital status, race, color, religion, national origin, age (provided the applicant has the capacity to contract), because all or part of the applicant's income is derived from public assistance of any kind, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. These shall hereafter be referred to in this Subpart as "ECOA prohibited bases". It is the policy of the Farmers Home Administration

that assistance and services shall not be denied to any person or applicant as a result of race, sex, national origin, color, religion, marital status, age, receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act.

§ 1910.3 Receiving applications.

Applications for FmHA assistance will ordinarily be filed in the County Office serving the area in which the farm, dwelling, business, or other facility for which financing is being requested is or will be located.

(a) All persons applying for FmHA assistance who are not indebted to FmHA must file a written application. Any person wishing to submit an application will be permitted to do so. No oral or written statement may be made to applicants or prospective applicants that would discourage them from applying for assistance, based on any ECOA "prohibited basis". The filing of written applications will be encouraged even though funds may not be currently available, since complete applications will be considered in the order received, except when program regulations or veteran status provides for preference. Applications will normally be handled as follows:

(1) Form FmHA 410-4, "Application for Rural Housing Loans (Nonfarm Tract)" will be used by applicants for RH loans on nonfarm tracts who depend primarily on off-farm income.

(2) Form FmHA 410-1, "Application for FmHA Services" will be used by all other applicants. These include persons applying for RH loans on farms or nonfarm tracts who derive a major portion of their income from farming. For EM loans, it is necessary for the applicant to complete Form FmHA 1945-22, "Certification of Disaster Losses".

(3) All individual loan applicants will sign Form FmHA 410-9, "Statement Required by the Privacy Act". A signed copy will remain with the application. No application is complete without a signed Form FmHA 410-9 on file.

(4) Information regarding race, national origin, sex, and marital status is needed for monitoring purposes for all applications filed for assistance to finance residential real estate when the loan is to be secured by a lien on the property. In those cases, FmHA will request the applicant and/or co-applicant to furnish that information on the application on a voluntary basis. The application form will indicate that this information is provided on a voluntary basis.

(b) Requests by FmHA borrowers or previous borrowers for additional assistance from FmHA will be processed as follows:

(1) Applicants for OL, EM, RH, individual SW, or individual LH loans who have a current Form FmHA 431-2, "Farm and Home Plan", Form FmHA 431-3, "Family Budget", or Form FmHA 410-4, and who are presently indebted to FmHA, will be required to complete only the following items of Form FmHA 410-1 or Form FmHA 410-4:

- (i) Name.
- (ii) Loan purpose.
- (iii) Planned income for next 12 months.
- (iv) Date and signature of the applicant.

(2) If information about their current status is not available, applicants should fully complete Form FmHA 410-1 or Form FmHA 410-4, as appropriate. Applicants for EM loans with new losses from an authorized disaster must also complete Form FmHA 1945-22.

(c) County Office Assistants ordinarily will be responsible for receiving loan applications and giving a preliminary explanation of services available through FmHA. An explanation of the types of assistance available should be given whenever it is not clear what type of loan or grant will meet the applicant's needs. The employee receiving the application will make sure that it is properly completed, dated, and signed, and will give whatever assistance is necessary. An applicant may apply for and maintain a loan account using a birth-given first name and a birth-given surname, or the spouse's surname, or a combination surname. Married persons may apply as individuals. In the case of a joint application, the persons requesting the assistance will designate who is listed as "applicant" and who is listed as "co-applicant." When the use of veteran's preference is involved, the identity of the veteran must be properly documented if the name used in the application differs from that shown on the veteran's evidence of eligibility.

(d) Information will be obtained about household members or others as required by program regulation needed to determine eligibility for the requested assistance. An applicant will also be required to provide information concerning a spouse or former spouse, who will not be a cosigner, who is not a member of the household when the applicant is relying on alimony, child support, or separate maintenance from that spouse or former spouse as a basis for repayment, or receipt of such payments will be considered for eligibility. In such cases information regarding the spouse's or former spouse's financial resources may be requested. Only information regarding the receipt and dependability of income from alimony, child support, or separate maintenance pro-

vided by a former spouse, may be requested, considered, and verified to determine eligibility and repayment ability.

(e) Signature requirements on the Promissory Note will be as needed to assure repayment of the indebtedness and adequacy of the security instrument. Signature requirements on the Mortgage or Deed of Trust will be that sufficient to obtain the required lien, and to make the property being offered as security available to satisfy the debt in the event of default. FmHA State Supplements will be issued to outline the requirements in accordance with State real property law. The State Director will obtain the advice of OGC prior to issuance of the State Supplement.

(f) If a spouse's signature would be necessary for FmHA to obtain the necessary security, information regarding an applicant's marital status will be obtained. Only the terms "married," "unmarried" and "separated" may be used to designate marital status. "Unmarried" includes single, divorced, or widowed persons.

(g) FmHA may not request information concerning birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children. Assumptions or aggregate statistics relating to the likelihood or probability that any particular group of persons will bear or rear children will not be used to evaluate creditworthiness, or for any other purpose; nor will the assumption be made that, for that reason, an applicant will receive diminished or interrupted income in the future.

(h) If after discussing credit needs, it appears that the applicant may be able to obtain the necessary credit from some other source, the County Supervisor should provide information on the availability of such credit and provide the needed assistance in contacting that credit source. All applications, including those from applicants assisted in obtaining credit from other credit sources, will be listed and reported in accordance with FmHA Instructions 405.1 and 492.3 which are available in all FmHA offices.

(i) FmHA will normally use the Social Security number or Internal Revenue Service (IRS) tax number, whichever is appropriate, as a borrower identification number. The applicant's Social Security or IRS tax number, preceded by the State and county code number, will constitute the entire case number to be used on all FmHA forms. If the applicant is an individual, the Social Security number should be used. If the applicant is a legal entity, its IRS tax number will be used. If the applicant does not have, or does not authorize use of a Social Security number for identifica-

tion purposes, the Finance Office will assign a number. No applicant will be denied any right, benefit, or privilege provided by law because of refusal to disclose a Social Security number. Any applicant requested to disclose a Social Security number in the completion of a loan application will be orally counseled or advised in writing that:

(1) Disclosure of the Social Security number is voluntary and that refusal to disclose the Social Security number will not result in any adverse action; and

(2) The Social Security number is used in the identification of loan records and in the administration of payment transactions.

(j) For all loans and credit sales secured by a first mortgage and involving the purchase of an existing 1 to 4 family unit, or purchase of a building site and construction of 1 to 4 family residential units, or FO loans involving tracts of 25 acres or less, whether made to an individual, corporation, partnership, cooperative, association, or other entity, the booklet entitled "Settlement Costs" will be hand-delivered to the applicant when the completed application is received, or mailed to the applicant within three (3) business days after receipt of the application in the County Office.

(1) Form FmHA 440-58, "Estimate of Settlement Costs," will be completed by the County Supervisor and delivered to the applicant with the booklet.

(2) A record of the date and method of delivery of the booklet and Form FmHA 440-58 will be kept in the running record section of the applicant/borrower County Office case folder.

#### § 1910.4 Processing applications.

When obtaining information concerning applicants and evaluating their qualifications, FmHA personnel will be governed by the provisions of ECOA and the established policies for the various types of assistance offered by FmHA.

(a) *Completed applications.* Applications for which all information necessary to determine eligibility has been received, will be processed in the order received except as modified by veteran's preference policies. The County Supervisor will verify the information furnished by the applicant and record and assemble additional information needed to properly evaluate the applicant's qualifications and credit needs. Information may be obtained and verified by:

- (1) County Office records.
- (2) Form FmHA 410-4.
- (3) Credit reports as provided in Part 1801 Subpart B (FmHA Instructions 1910-B and 1910-C).
- (4) Personal contacts.
- (5) Visits of supervisory personnel to the applicant's residence or business.

(6) Form FmHA 410-8, "Applicant Reference Letter" to informed sources such as creditors, bankers, merchants, employers, and landlords, the information obtained as a result of personal inquiries and observations will be recorded in the running record. The information obtained by correspondence will be attached to the related application, Form FmHA 410-1 or Form FmHA 410-4, as appropriate.

(b) *Determining eligibility.* The County Committee will be used to determine eligibility of RH applicants who are also applying for a farmer program loan, or who are already indebted for a farmer program loan. The County Supervisor will determine eligibility for all other RH applicants. All farmer program applications are to be submitted to the County Committee for eligibility. The County Supervisor must obtain and present to the County Committee sufficient information concerning an applicant for the Committee to determine eligibility for the type of assistance requested.

(c) *County Committee actions.* All actions by the Committee regarding applicant eligibility will be taken in Committee meetings attended by at least two Committee members. If the County Committee is unable to reach a decision based on the information available, they may request the County Supervisor to obtain further information or may request a personal interview with the applicant. The County Committee will act on the application after considering all pertinent information. This action will be taken in the absence of the applicant. County Committee members are required to adhere to all applicable provisions of this regulation when determining eligibility of applicants. Applicants may not be interviewed for reasons unrelated to proper eligibility considerations.

(d) *Timeliness.* Written notice of eligibility or rejection will be sent to all applicants within 30 days after receipt of the completed application. A completed application is one for which all information necessary to determine eligibility has been received. If a determination of eligibility cannot be made within 30 days from the date of receipt of the completed application, the applicant will be notified in writing of the circumstances causing the delay, and the approximate time needed to make a decision. The letter will contain the ECOA paragraph set forth in § 1910.6(b)(1) of this Subpart.

(e) *Recording action taken.* The County Committee minutes or the running case record (whichever is appropriate) will show what action was taken on each application. The specific reasons for unfavorable decision of eligibility on applications will be shown on the Committee Certifica-

tions. In those cases not involving County Committee action, this information will be recorded in the running case record.

(f) *Active applications.* An applicant may voluntarily withdraw an application at any time. When an applicant has been determined eligible but further processing is delayed due to an apparent lack of interest, the applicant will be advised by letter that the application will be considered withdrawn unless the County Office receives a notice within 30 days that further consideration is desired. The letter will contain the ECOA paragraph set forth in § 1910.6(b)(1) of this Subpart. Applications for FO, SW, OL, RL, RH, RRH, RCH, RHS, and LH loans received during any fiscal year will remain active during the remainder of that fiscal year in which they were received, plus the subsequent fiscal year, unless withdrawn or disapproved, or unless the loan is closed. However, an expiring application for which a loan has been approved but not closed will be considered active until the loan is closed or canceled. All withdrawn or rejected applications will be retained in an inactive file for 25 months after the date of withdrawal or notice of adverse action. If notice has been received by FmHA that an adverse action is under investigation or in litigation, that application and all related material will be retained until final disposition of the matter.

§ 1910.5 Evaluating applications.

The following criteria will be considered in addition to the eligibility criteria in applicable program regulations.

(a) *Age of applicant.* When evaluating the application, the age of the applicant will not be used as a consideration of eligibility (provided the applicant has reached the legal age of majority in the State, or has had the disability of minority removed by court action) except when a specific age is being used to the advantage of the applicant (e.g. assistance under the 504 grant program).

(b) *Credit history.* Credit history will be a consideration to the extent that it is used in evaluating all applicants for similar types and amounts of credit. For instance, credit requirements for a female applicant will not differ from those for a male applicant.

(c) *Creditworthiness.* When considering creditworthiness of an applicant, the following will not indicate an unacceptable credit history.

(1) Bankruptcies, foreclosures, judgments, or delinquent payments of the applicant which occurred more than 36 months before the application if no recent similar situations have occurred.

(2) Isolated incidents of delinquent payments which do not represent a

general pattern of unsatisfactory or slow payment.

(3) "No history" of credit transactions by the applicant.

(4) Recent bankruptcy, foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(i) The circumstances causing any of the above were of a temporary nature and were beyond the applicant's control. Example: loss of job; delay or reduction in government benefits, or other loss of income; increased living expenses due to illness, death, etc.

(ii) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

§ 1910.6 Notification of applicant.

(a) *Favorable decision.* If the decision of eligibility is favorable, the County Supervisor will notify the applicant immediately, and then will proceed promptly to process the loan in accordance with the applicable regulations. Care should be exercised to be sure that the applicant understands that a decision of eligibility does not constitute approval of the loan. In notifying the applicant of a favorable decision of eligibility the County Supervisor will, when practicable, arrange a meeting with the applicant to proceed with developing the loan docket. When the applicant has been determined eligible for assistance and additional information becomes available that indicates the original determination may be in error, the application will be reconsidered taking the new information into account. If, after reconsideration, the applicant is rejected, adverse action has occurred, and proper notification will be sent.

(b) *Unfavorable decision.* (1) The County Supervisor will immediately notify the applicant in writing of the adverse decision whether made by the County Supervisor or the County Committee. A statement will be made giving specific reasons for the denial. In all cases, applicants will be advised of their appeal rights in accordance with Subpart B of Part 1900 of this Chapter. The following statement will also be made on all notifications of adverse action.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance

with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

(2) If the County Committee determines that the applicant is not eligible, Form FmHA 440-2 County Committee Certification or Recommendation will be completed by giving the specific reasons for the rejection in the blank space immediately above the space for the signatures of the County Committee members. The form will be dated and the County Committee members will sign in the space provided.

(c) *Lack of funds.* Applications received when funds are not available will be processed and a decision on eligibility will be made. Applicants who are ineligible will be so advised, in accordance with §1910.6(b)(1) of this Subpart. Applicants who are determined eligible will be notified that funds are presently exhausted but that their application will be held until funds are available. When funds become available for the requested loan, eligible applicants will be notified by letter. Such notice will also provide that the County Office should be advised within 30 days if the applicant is still interested in obtaining the assistance originally applied for. If the applicant does not respond, a second notice will be sent requesting the applicant to contact the County Office within 15 days or the application will be considered withdrawn. The letter will contain the ECOA Notice set forth in §1910.6(b)(1) of this Subpart. If the applicant indicates a desire to obtain assistance, the County Supervisor will review the application with the applicant and, if there have been any significant changes that would affect eligibility, the County Supervisor will obtain necessary current information to determine eligibility, or when appropriate, present the application to the County Committee for reconsideration. If, after reconsideration, the application is rejected, adverse action has occurred, and proper notification will be sent as outlined in §1910.6(b)(1) of this Subpart.

(d) *Credit report.* If a loan is refused because of information provided by a credit report, the County Supervisor will also:

(1) State the reason as being information received in the credit report and cite the specific information given in the credit report that led to the rejection (e.g. delinquent obligations, tax lien, or judgments).

(2) Provide the name and address of the credit reporting company.

(3) Inform the applicant that a copy of the Credit Report may be obtained from FmHA if requested by the applicant, but that any dispute regarding the accuracy of the information in the credit report must be resolved between

the Credit Reporting Company and the applicant.

(e) *Other credit references.* When denial is based on information obtained from a source other than a Credit Reporting Company, the applicant will be advised that denial is based on information from other than a Credit Reporting Company, and that upon written request, the nature of that information will be disclosed.

#### §1910.7 Counseling.

(a) *Budgets.* When it appears that an RH non-farm applicant has insufficient income, based on the abbreviated budget section of the application form, the County Supervisor should invite the applicant to return to the County Office to complete Form FmHA 431-3, "Family Budget". There should be enough income to repay the requested loan, pay other debts, and pay planned household and other expenses. Joint completion of the budget by the applicant and County Supervisor should provide the opportunity for the applicant to fully explain how household income is managed.

(b) *Farm and Home Plan.* When information on form FmHA 410-1 or the Farm and Home Plan indicates that the applicant has insufficient income to repay the requested loan, pay other debts and provide a reasonable standard of living, alternative plans of farm operation will be considered to attempt to overcome the problem.

(c) *Applicant/Supervisor understanding.* When discussing the reasons for the applicant's failure to qualify, the County Supervisor will:

- (1) Be sympathetic.
- (2) Try to help the applicant work out the problem.
- (3) Give a full explanation for the rejection and provide full opportunity for further discussion.
- (4) Offer suitable alternatives when practicable.

#### §1910.8 Reaching an understanding.

A proper understanding will be obtained with all applicants with respect to the basic loan making and servicing policies, their responsibilities, and the benefits that may be expected from FmHA assistance. The applicant should be given adequate time to make all necessary basic decisions. Proper understandings may be reached with applicants through:

(a) *Individual interviews with County Office personnel.* The process of arriving at an understanding will begin on the occasion of the first interview with the applicant. The applicant will be given an attentive and sympathetic hearing with ample time to discuss fully all problems and needs. County Office personnel will explain clearly whether and how these needs may be met through the services of

FmHA. If necessary, arrangements will be made for subsequent discussions until the County Supervisor is satisfied the applicant has obtained a proper understanding.

(b) *Applicant interviews with the County Committee.* An applicant requesting an opportunity to appear before the County Committee to discuss any questions relating to the application or the FmHA program will be permitted to do so.

(c) *Group meetings.* An effective method of assisting applicants to obtain a proper understanding of the FmHA program is through group meetings. Effective group meetings can be held with three or more applicants. Through group meetings applicants get the benefit of explanations given to questions raised by others. Requirements can be presented more impersonally, and generally are more acceptable when applicants know that all borrowers must meet the same requirements. Group participants will be informed that matters of a personal or confidential nature will not be discussed publicly, and that any such questions will be answered during individual interviews.

(d) *Items to be discussed.* Before loans are made, County Supervisors will make every effort to see that an understanding is reached with the applicant on the following points as they apply to the type of assistance involved:

- (1) Farm and Home Planning.
- (2) Budgeting.
- (3) Record keeping.
- (4) FmHA visits.
- (5) Analysis of income and expenses.
- (6) Supervised bank accounts.
- (7) Planning and performing development work.
- (8) Use of funds.
- (9) Security requirements.
- (10) Care and maintenance of security.
- (11) Accounting for security property.
- (12) Repayment of loans.
- (13) Interest credits and recapture.
- (14) Moratorium.
- (15) Graduating to other credit sources.
- (16) Direct payment to the Finance Office, when applicable.
- (17) Appeal procedure.

#### §1910.9 Supplemental material to be provided by State Offices.

To further assist County Supervisors receive and process applications, the State Office may supplement this Subpart with materials and information adapted to state and local conditions. Examples of the types of information that can be used effectively for the guidance of the County Supervisors are:

- (a) Guides and suggestions for holding group meetings of applicants.
- (b) Illustrative material for use in explaining the FmHA program to individuals and groups.
- (c) Information on State statutes concerning community property or dower and courtesy rights, and how these laws affect loan programs and security requirements.
- (d) Outreach material.

§ 1910.10 Veterans' preference.

(a) *Farm loans.* Veterans' preference will be extended to any person applying for an FO, SW, RL, or OL loan who has been honorably discharged, including clemency discharges, or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, who served on active duty in such forces: (1) during the period of April 6, 1917, through March 31, 1921; (2) during the period of December 7, 1941, through December 31, 1946; (3) during the period of June 27, 1950, through January 31, 1955; or (4) for a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975.

(b) *RH loans.* Veterans' preference will be extended to any person applying for an RH loan who would qualify for such preference under paragraph (a) of this section. Such preference will also be extended to the spouses and children of deceased servicemen who died in service during one of the periods described in paragraph (a) of this section.

(c) *Applying Veterans' preference.* Veterans' preference will apply when:

- (1) There is a shortage of funds.
- (2) Obligating forms are ready to be submitted to the Finance Office.
- (3) There is more than one application having the same date.

§ 1910.11 Special requirements.

(a) *Serviceman's Readjustment Act of 1944.* Section 512(a)(D) of the Serviceman's Readjustment Act of 1944, as amended, provides that an applicant for a direct housing loan from the Veterans Administration (VA) must be "unable to obtain a loan for such purposes from the Secretary of Agriculture under the Consolidated Farm and Rural Development Act as amended, or the Housing Act of 1949, as amended". Veterans Administration Loan Guaranty Officers may, therefore, require VA loan applicants to apply to FmHA for loan assistance.

(b) *Veterans determined ineligible by FmHA.* If the veteran is unable to obtain a loan from the FmHA, the County Supervisor will, upon request, furnish the applicant with a rejection letter to be presented to the Loan Guaranty Officer. The Loan Guaranty Officer may consult with the County

Supervisor regarding the investigation made by FmHA of the veteran's application, and the specific reasons for rejection.

§§ 1910.12-1910.50 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.)

Dated: November 17, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.

[FR Doc. 78-33763 Filed 12-1-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 78-ASW-53; Amdt. 39-3358]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 206L and 206L-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive which requires repetitive checks of the horizontal stabilizer for cracks on Bell Models 206L and 206L-1 helicopters. This amendment is needed to prevent possible failure of the horizontal stabilizer which could result in loss of the helicopter.

DATE: Effective date of the AD will be December 5, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESS: The applicable service bulletin may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

Tom A. Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number 817-624-4911, Extension 517.

SUPPLEMENTARY INFORMATION: There have been two reports of the horizontal stabilizer cracking, along the line of stabilizer inserts that are used to attach the stabilizer to the tail boom, on Bell Model 206L helicopters, which could result in failure of the stabilizer and could cause the loss of a helicopter. Since this condition is

likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires visual daily checks of certain horizontal stabilizers on Bell Models 206L and 206L-1 helicopters. Modification of the upper stabilizer supports is also required so that the checks can be accomplished.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Models 206L and 206L-1 helicopters, Serial Numbers 45004 through 45176 and 46601 through 46617, certificated in all categories (Airworthiness Docket No. 78-ASW-53).

Compliance required as indicated, unless already accomplished.

To prevent possible failure of the horizontal stabilizer, P/N 206-023-119-003, -011, -075, or -107, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD, modify the left and right upper stabilizer supports, P/N 206-023-100-009 and -010 respectively, in accordance with Bell Helicopter Textron Service Bulletin 206L-78-3, dated October 23, 1978, or later FAA approved revision, so that the critical area can be checked.

(b) Before the first flight of each day after compliance with paragraph (a), visually check the stabilizer skin area exposed by the cutouts, in the upper stabilizer supports, for cracks.

(1) If a crack is found, remove and replace the horizontal stabilizer before further flight.

(2) If no cracks are found, continue the repetitive check specified above.

(c) The checks required by this AD may be performed by the pilot.

NOTE.—For the requirements regarding the listing of compliance and method of compliance with this AD in the aircraft's permanent maintenance record, see FAR 91.173.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington,

D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective December 5, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); 14 CFR 11.89.)

NOTE.—The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

Issued in Fort Worth, Texas, on November 17, 1978.

HENRY L. NEWMAN,  
Director, Southwest Region.

[FR Doc. 78-33665 Filed 12-1-78; 8:45 am]

#### [4910-13-M]

[Airspace Docket No. 78-WA-17]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### PART 73—SPECIAL USE AIRSPACE

##### Designation of Temporary Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments designate temporary restricted area airspace south of Fairbanks, Alaska, to contain a military joint readiness exercise called "Jack Frost '79." These actions provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the restricted area during its time of designation.

EFFECTIVE DATE: December 28, 1978. Period of designation is January 22, 1979, through February 7, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

#### SUPPLEMENTARY INFORMATION:

##### HISTORY

On October 26, 1978, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate a temporary restricted area identified as R-2212 south of Fairbanks, Alaska, to contain a military joint readiness exer-

cise called "Jack Frost '79." Since the restricted area would penetrate the Continental Control Area, the FAA proposed to list it under § 71.151 to provide controlled airspace above 14,500 feet MSL. The affected airspace would be prohibited to nonparticipating aircraft between January 22, 1979, through February 7, 1979, during its time of use by the military (43 FR 49990). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments were favorable. Sections 71.151 and 73.22 were republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 344, 663).

#### THE RULE

These amendments to Parts 71 and 73 of the Federal Aviation Regulations designate temporary restricted area airspace in the vicinity of Fairbanks, Alaska, to protect nonparticipating aircraft during the time that the "Jack Frost '79" readiness exercise is in operation. Additionally, the airspace at and above 14,500 feet MSL within the temporary restricted area is included in the Continental Control Area during the designated period. The Department of the Air Force has advised that the requirements of the National Environmental Policy Act (NEPA) have been met.

The proposed temporary Military Operations Area (MOA) identified as "FROSTY" is being established by separate nonrulemaking action.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (43 FR 344, 663) are amended, effective 0901 G.m.t., December 28, 1978, as follows:

#### PART 71

1. Section 71.151 (43 FR 344) is amended by adding the following temporary restricted airspace area during its time of designation.

R-2212 CLEAR CREEK, ALASKA

#### PART 73

2. Section 73.22 (43 FR 663) is amended by adding the following:

R-2212 Clear Creek, Alaska

*Boundaries.* Beginning at Lat. 64°41'00"N., Long. 147°55'00"W.; to Lat. 64°40'00"N., Long. 147°20'00"W.; via the west bank of the Tanana River to Lat. 64°23'00"N., Long. 147°00'00"W.; to Lat. 64°15'30"N., Long. 147°00'00"W.; to Lat. 64°15'00"N., Long. 147°45'00"W.; via the east bank of the Wood River to Lat. 64°23'00"N., Long. 148°07'00"W.; to point of beginning.

*Designated altitudes.* Surface to but not including Flight Level 200.

*Time of designation.* January 22, 1979, through February 7, 1979, continuous from 0600 to 1800 local time, intermittent other times.

*Controlling agency.* Federal Aviation Administration, Anchorage ARTCC.

*Using agency.* Alaskan Air Command, Elmendorf Air Force Base, Alaska.

(Secs. 307(a) 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

NOTE The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 28, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc. 78-33766 Filed 12-1-78; 8:45 am]

#### [3510-25-M]

### Title 15—Commerce and Foreign Trade

## CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

### PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

#### Requests for an Extended Validity Period for an Export License

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: It is the policy of the Office of Export Administration to limit the validity of individual licenses to export commodities to one year. However, the Office of Export Administration will consider requests for exception to this policy and grant extended validity periods when requested and justified by the applicant. This rule explains procedures to initiate such a request.

EFFECTIVE DATE: December 4, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce Washington, D.C. 20230 (Tel. 202-377-4196).

**SUPPLEMENTARY INFORMATION:** Although the policy of the Office of Export Administration is to limit an individual license to export commodities to a one-year validity period, OEA will consider reasonable requests for longer validity periods. A request for an extended validity period might be justified by long production lead times or a tie-in to a major multi-year construction project, or other extenuating circumstances. This rule explains the procedures to follow in requesting an extended validity period. This rule does not affect procedures set forth in § 372.12 to extend an existing license by amendment.

Accordingly, Part 372 of the *Export Administration Regulations* (15 CFR Part 372) is amended as follows: §§ 372.9(d)(2) and (3) are renumbered §§ 372.9(d)(3) and (4), § 372.9(d)(1) is revised editorially, and a new § 372.9(d)(2) is added to read as follows:

§ 372.9 Issuance of validated licenses.

(d) *Validity of License.*—(1) *One-year validity period.* Unless otherwise stated on the face of the license, an export license is valid for one year from the last day of the month during which it is issued; e.g., a license issued on June 11, 1978, would expire on June 30, 1979. The expiration date is shown on the license. If the expiration date falls on a legal holiday (Federal or State), the validity period is automatically extended to midnight of the first day of business following the expiration date.

(2) *Extended validity period.* As an exception to the general practice of limiting validity periods to one year, the Office of Export Administration will consider granting a validity period exceeding one year where circumstances warrant. For example, an extended validity period will generally be granted when production lead time will not permit export within one year of issuance of a validated license or where the transaction is related to a major multi-year construction project. A continuing requirement to supply spare or replacement parts, however, will generally not justify an extended validity period. Applicants may request an extended validity period by indicating the desired validity period in Item 12 of Form ITA-622P, and attaching justification and documentation to support the request. The approved expiration date will be indicated on the face of the license. For extensions of validity period after the license has been issued, see § 372.12.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002,

42 F.R. 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,  
Acting Deputy Assistant Secretary  
for Industry and Trade.  
[FR Doc. 78-33777 Filed 12-1-78; 8:45 am]

[3510-25-M]

**PART 373—SPECIAL LICENSING PROCEDURES**

**Consolidation of Special License Procedure Forms**

**AGENCY:** Office of Export Administration, Bureau of Trade Regulation, U. S. Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** Three special license procedures of the Office of Export Administration (OEA) require foreign consignees of U.S. exporters to provide certain information and undertakings that are taken into consideration by the OEA in determining the eligibility of the consignees to participate in the procedures. The required information and undertakings are required on Form DIB-620 for consignees under the Project License Procedure; Form DIB-678 for consignees under the Distribution License Procedure; and Form ITA-6027 for foreign-based service facilities under the Service Supply (SL) procedure. Many exporters of commodities under validated license control participate in more than one of these special license procedures and hence must maintain stocks of the various forms. In addition, the Commerce Department District Offices and Foreign Service posts of the Department of State stock all three of the forms for the convenience of the export trade. Since much of the information required on all three forms is the same, the OEA has devised one form, ITA-6052, to replace the three. This will simplify the licensing procedure and reduce the variety of forms that must be maintained in inventory by both the export trade and the government.

**EFFECTIVE DATE:** December 4, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-4196).

**SUPPLEMENTARY INFORMATION:** Three copies of Form DIB-678 and of ITA-6027 are required to be submitted

in support of applications under the Distribution License and the Service Supply License procedure, respectively. When the application is approved, two validated copies of the form are returned to the exporter: one for his files and one for forwarding to the foreign consignee. Currently, only one copy of Form DIB-620 is required in support of a Project License application. In order to conform the Project License procedure to the other two, the Regulations are revised to require three copies of Form ITA-6052 from each foreign consignee in support of a Project License application. As in the case of the other two procedures, two validated copies will be returned to the exporter for disposition as explained above.

Accordingly, the Export Administration Regulations (15 CFR Part 373) are amended as follows:

1. § 373.2 is amended as follows:
  - a. Paragraph (c)(2)(iii) is revised to read as set forth below.
  - b. A new paragraph (d)(4) is added to read as set forth below.
  - c. The form designation DIB-620 in paragraph (e)(2)(iv) is replaced by ITA-6052.

§ 373.2 Project license.

- (c) \*\*\*
- (2) \*\*\*

(iii) Form ITA-6052, Statement by Foreign Consignee in Support of Special License Application. This form is required from each ultimate consignee named in the license application, including subsidiaries, affiliates, branches, or other associated firms of the applicant, if the applicant and the consignee are separate legal entities. It is *not* required where the applicant is the same person as the ultimate consignee. Item 5 of Form ITA-6052 need not be completed, but the appropriate box(es) in Item 6 must be checked. Three copies of the form shall be manually signed by the ultimate consignee, or by a responsible official of the ultimate consignee's firm who has (a) personal knowledge of the information included in the statement, (b) authority to bind the ultimate consignee, and (c) the power and authority to control the use and disposition of the licensed commodities and technical data in the country of ultimate destination. The authority to sign this form may *not* be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his official position with the ultimate consignee. The official signing the statement shall include his official title with his signature.

(d) \*\*\*

(4) Form ITA-6052. Concurrently with the approval of a Project License application, two validated copies of each approved Form ITA-6052 will be sent to the U. S. exporter. One copy shall be retained by the exporter, and one copy shall be sent by the exporter to the approved consignee.

2. § 373.3 is amended as follows:

a. Paragraph (d)(2)(ii) is revised to read as set forth below:

§ 373.3 Distribution license.

\* \* \* \* \*

(d) \*\*\*

(2) \*\*\*

(ii) Form ITA-6052, Statement by Foreign Consignee in Support of Special License Application, except that if the consignee is a foreign government agency, as defined in § 375.2(b)(iv), Form ITA-6052 is not required;

\* \* \* \* \*

b. The form designation DIB-678 is replaced by ITA-6052 in the following paragraphs: the heading and first paragraph of (d)(3)(iii); the heading of paragraph (f); the first sentence of paragraph (f)(1); the first sentence in paragraph (g); the first sentence in paragraph (i)(2); the first and second sentences in paragraph (k)(2)(ii); the heading and first sentence in paragraph (l)(1); and the third sentence in paragraph (l)(4).

3. § 373.7 is amended as follows:

a. Paragraph (d)(2)(ii)(b) is revised to read as set forth below:

§ 373.7 Service supply (SL) procedure.

\* \* \* \* \*

(d) \*\*\*

(2) \*\*\*

(ii) \*\*\*

(b) Form ITA-6052, Statement by Foreign Consignee in Support of Special License Application, in triplicate.

\* \* \* \* \*

b. The form designation IA-544 is replaced by ITA-6052 in the following: Paragraph (d)(2)(ii)(c); paragraph (e) (three citations); paragraph (h)(1) (five citations); paragraph (h)(1)(i); paragraph (h)(1)(ii); paragraph (h)(2) (three citations); paragraph (h)(3) (two citations), and paragraph (j)(2)(i). The form designation DIB-6027P in paragraph (d)(3)(ii)(b) is replaced by ITA-6052.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 F.R. 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 F.R. 64721 (1977); and Industry and Trade Administration Organization and Function

Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,  
Acting Deputy Assistant Secretary  
for Industry and Trade.

[FR Doc. 78-33776 Filed 12-1-78; 8:45 am]

[3510-25-M]

PART 379—TECHNICAL DATA

Non-substantive Revisions in  
Technical Data Regulations

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule amends 15 CFR, Part 379 by making certain editorial changes in the Department's technical data regulations. These are non-substantive changes that have already been published in the *Export Administration Regulations*.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-4196).

Accordingly, § 379.4 of the Export Administration Regulations (15 CFR Part 379) is revised as follows:

§ 379.4 General license GTDR: Technical data under restriction.

A general license designated *GTDR* is hereby established authorizing the export of technical data that are not exportable under the provisions of General License *GTDA*, subject to the provisions, restrictions, exclusions, and exceptions set forth below and subject to the written assurance requirement set forth in § 379.4(f).

(a) *Country Groups S and Z restrictions*. No Technical data may be exported under this general license to Country Group S or Z.

(b) *Country Groups Q, W, and Y restrictions*. No technical data may be exported under this general license to Country Group Q, W, or Y, except:

(1) Data in such forms as manuals, instruction sheets, or blueprints, provided they are:

(i) Sent as part of a transaction involving, and directly related to, a commodity licensed for export from the United States, or specifically authorized for reexport, to the same consignee and destination to which the commodity was or will be exported;

(ii) Sent no later than one year following the shipment of the commodity

to which the technical data are related;

(iii) Of a type delivered with the commodity in accordance with established business practice;

(iv) Necessary to the assembly, installation, maintenance, repair, or operation of the commodity; and

(v) Not related to the production, manufacture, or construction of the commodity.

(2) Technical data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any commodity, plant, service or technical data, provided that:

(i) The commodity, plant, service or technical data, are not (and are not related to) a commodity identified by the code letter "A" following the Export Control Commodity Number (ECCN) on the Commodity Control List (§ 399.1), or shown in Supplement No. 2 or 3 to Part 370 (controlled by U.S. Department of State and Nuclear Regulatory Commission, respectively);

(ii) The technical data are of a type customarily transmitted with a prospective or actual quotation, bid, or offer (in accordance with established business practice); and

(iii) The export will not disclose the detailed design, production, or manufacture, or the means of reconstruction, of either the quoted item or its product. Similarly, a quotation, bid, or offer for technical data or services must not disclose the detailed technical process involved.

NOTE.—Neither this authorization nor its use means that the U.S. Government intends, or is committed, to approve an export license application for any commodity, plant, technical data, or service that may be the subject of the transaction to which such quotation, bid, or offer relates. Exporters are advised to include in any quotations, bids, or offers, and in any contracts entered into pursuant to such quotations, bids, or offers, a provision relieving themselves of liability in the event that an export license (when required) is not approved by the Office of Export Administration.

(c) *Technical data restrictions applicable to all destinations*. No technical data<sup>1</sup> (including operating and maintenance instructional material) related to the following may be exported under this general license, and exports of technical data to all destinations, including Canada, require a validated export license:

(1) Any commodity where the exporter knows or has reason to know that it is related to or specifically designed for, or intended to be used for developing or testing nuclear weapons or nuclear explosive devices (as described in § 378.2) or will be used di-

<sup>1</sup>This restriction does not apply to data included in the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

rectly or indirectly in designing, constructing, fabricating or operating the following facilities, or components for such facilities, or the training of personnel for such facilities (as described in § 378.3):

(i) facilities for the chemical processing of irradiated special nuclear or source material;

(ii) facilities for the production of heavy water;

(iii) facilities for the separation of isotopes of source and special nuclear material; or

(iv) facilities for the fabrication of nuclear reactor fuel containing plutonium;

(2) Maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machine, device, component, or equipment specifically developed or designed for use in such plants or facilities;

(3) Neutron generator systems, including tubes, designed for operation without an external vacuum system, and utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction; and specially designed parts, n.e.s.; and

(4) Porous nickel.

(d) *Restrictions applicable to all destinations except Canada. No technical data relating to the following commodities, other than technical data described in § 379.4(b) above,<sup>2</sup> may be exported under this General License GTDR, and exports of these technical data to all destinations, except Canada,<sup>3</sup> require a validated export license:*

(1) Civil aircraft, civil aircraft equipment, parts, accessories, or components, *except laminated or tempered safety glass for aircraft; hydraulic motors; internal combustion engines; air-conditioning systems; heat exchangers and oil and liquid coolers; pumps, air compressors, fans, and blowers; fire extinguishing systems; electric motors and motor controls; electrical apparatus for making, breaking, or protecting electrical circuits; ignition harness and cable sets; electrical starting and ignition equipment; meters and instruments; alarm, warning, and signaling instruments; constant speed propellers, fixed pitch and ground-adjustable propellers for non-*

*military aircraft, and rotors and rotor blades for non-powered rotorcraft, landing lights and other lighting fixtures; apparatus, equipment, and components for oxygen systems; mechanical tachometers, and other aircraft instruments n.e.s. included in the Commodity Control List under No. 6599;*

(2) Electrical and electronic instruments specially designed for testing or calibrating the airborne direction finding, navigational, and radar equipment;

(3) Airborne electronic transmitters, receivers, and transceivers;

(4) Airborne electronic direction finding equipment;

(5) Airborne electronic navigation and radar equipment;

(6) Watercraft of hydrofoil and hovercraft (air bubble) design;<sup>4</sup>

(7) Submersible watercraft other than military or naval types;<sup>5</sup>

(8) Airborne detection and tracking equipment using infrared radiation; and

(9) Any other commodity under the export control jurisdiction of the Office of Export Administration, if such commodity is not covered by an entry on the Commodity Control List.

(e) *Restrictions applicable to Republic of South Africa and Namibia. No technical data may be exported or reexported to the Republic of South Africa or Namibia under this General License GTDR where the exporter or reexporter knows or has reason to know that the data or any products of the data are for delivery, directly or indirectly, to or use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for such entities. As used in this paragraph (e), the term "any products of the data" includes the direct product<sup>6</sup> of the data and any subsequent products of the direct product. Further, any technical data that do qualify for export or reexport to the Republic of South Africa or Namibia under this General License GTDR must be accompanied by a written notice to the consignee that the direct product of the data may not be sold or otherwise made available directly or indirectly to the military or police entities in these destinations. In addition, no technical*

<sup>4</sup>This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity is under the export control jurisdiction of the Office of Export Administration.

<sup>5</sup>Technical data relating to military or naval submersible watercraft are subject to the export licensing authority of the U.S. Department of State.

<sup>6</sup>The term "direct product," as used in this paragraph, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

data relating to the commodities listed in Supplement 2 to this Part 379 may be exported under this General License GTDR to any consignee in the Republic of South Africa or Namibia.

(f) *Written assurance requirements.—(1) Requirement of written assurance for certain data, services, and materials. No export of technical data of the kind described in § 379.4(f)(1)(i)(a) through (o) below, may be made under the provisions of this General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product<sup>7</sup> thereof is intended to be shipped, either directly or indirectly, to Country Group Q, W,<sup>8</sup> Y, or Z, except as provided in § 379.4(f)(1)(ii) below. No export of technical data of the kind described in § 379.4(f)(1)(i)(p) below may be made under the provisions of this General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product thereof is intended to be shipped, directly or indirectly, to the USSR, Estonia, Latvia or Lithuania, except as provided in § 379.4(f)(1)(ii) below. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement that restricts disclosure of the technical data to use only in a country other than Country Group Q, W, Y or Z, and prohibits shipment of the direct product thereof by the licensee to Country Group Q, W, Y, or Z or, for data of the kind described in*

<sup>7</sup>The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, the aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the definition of direct product.

<sup>8</sup>Effective April 26, 1971, Country Group W no longer includes Romania. For purposes of assurances executed prior to that date, however, all references to Country Group W continue to apply to Romania as well as to Poland, and all conditions and responsibilities undertaken with respect to Romania remain unchanged.

<sup>2</sup>Data included in the foreign filing of a patent is also excluded from the restrictions set forth in § 379.4(d) if such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

<sup>3</sup>Only the restrictions set forth in § 379.4(c) apply to exports of technical data for use in Canada. In all other cases, an export of technical data for use in Canada may be made without either a validated or a general license. For reexport provisions applicable to Canada and other countries, see §§ 379.8(b) and (c).

§ 379.4(f)(1)(i)(p), to the USSR, Estonia, Latvia or Lithuania. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained. In addition, this general license is not applicable to any export of technical data of the kind described in § 379.4(f)(1)(4)(a) through (o) below if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or re-exported, directly or indirectly, to Country Group Q, W, Y, or Z, or, for data of the kind described in § 379.4(f)(1)(i)(p), to the USSR, Estonia, Latvia or Lithuania.

(i) Technical data relating to the following commodities:

(a) Other artificial graphite, and electrodes, electrical carbons, and other products made thereof, whether or not coated or composited with other materials to improve its performance at elevated temperatures or to reduce its permeability to gases, having an apparent relative density of 1.70 or greater when compared to water at 60°F (15.5°C), and with a particle grain size of less than 0.001 inch (1 mil);

(b) Electric furnaces specially designed for the production or processing of vapor deposited (pyrolytic) graphite or doped graphites whether as standing bodies, coatings, linings or substrates;

(c) Other gravity meters (gravimeters); and parts and accessories, n.e.s.;

(d) Other transonic, supersonic, hypersonic and hypervelocity wind tunnels and devices; and parts and accessories, n.e.s.;

(e) Watercraft of 65 feet and over in overall length, designed to include motors or engines of 600 horsepower or over and greater than 45 displacement tons;<sup>9</sup>

(f) Methyl methacrylate, cross-linked, hot stretched, clear, film, sheeting, or laminates;

(g) Doppler sonar navigation systems;

(h) Aerial camera film, sensitized and unexposed, as follows: (1) having spectral sensitivities at wavelengths

greater than 7,200 Angstroms or at wavelengths less than 2,000 Angstroms; or (2) having resolving powers (using a Test-Object Contrast of 1,000:1) of 100 line pairs/mm or more or with a base thickness before coating of 0.004 inch or less;

(i) Continuous tone aerial duplicating film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 300 line pairs/mm or more;

(j) Instrumentation and/or recording film, sensitized and unexposed, having photo-recording sensitivities (as based on the reciprocal of the tungsten exposure in meter-candle-seconds at an exposure time of 0.0001 second) of 125 or more and a resolving power (using a Test-Object Contrast of 1,000:1) of 55 line pairs/mm or more and with a base thickness before coating of 0.004 inch or less and capable of being processed in solutions with alkalities of pH 10 or above at temperatures greater than 85°F;

(k) Maraging steels containing all of the following: 12 percent or more nickel, more than 3 percent molybdenum, more than 5 percent cobalt, and less than 0.5 percent carbon;

(l) Transformation Induced Plasticity (TRIP) steels or penta-alloy austenitic stainless steels of the following composition: 8 to 14 percent chromium, 6 to 10 percent nickel, 2 to 5 percent molybdenum, 1 to 3 percent silicon, 0.75 to 3 percent manganese, and 0.15 to 0.35 percent carbon;

(m) Other high speed continuous writing, rotating drum cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.s.;

(n) Other 16 mm high speed motion picture cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.s.;

(o) Single crystal sapphire substrates; and

(p) Machinery, equipment, instruments and other commodities utilized for the exploration or production of petroleum or natural gas.

(ii) The limitations set forth in this § 379.4(f)(1) do not apply to the export of:

(a) Technical data included in an application for the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office; and

(b) Technical data supporting a price quotation as described in § 379.4(b)(2) above.

(2) Requirement of written assurance for certain additional products and destinations.

(i) Except for technical data requiring a written assurance in accordance with the provisions of § 379.4(f)(1)

above, and except as provided in § 379.4(f)(2)(v) below, no export of technical data relating to the commodities described below in this § 379.4(f)(2) may be made under the provisions of this General License GTDR until the U.S. exporter has received a written assurance from the foreign importer that, unless prior authorization is obtained from the Office of Export Administration, the importer will not knowingly:

(a) Reexport, directly or indirectly, to Country Group Q, W,<sup>10</sup> Y, or Z any technical data relating to commodities identified by the symbol "W" in the column of the Commodity Control List titled "Validated License Required;"

(b) Export, directly or indirectly, to Country Group Z any direct product<sup>11</sup> of the technical data if such direct product is identified by the symbol "W" in the column of the commodity Control List titled "Validated License Required;" or

(c) Export, directly or indirectly, to any destination in Country Group Q, W, or Y any direct product<sup>11</sup> of the technical data if such direct product is identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List.

(ii) If the direct product<sup>12</sup> of any technical data is a complete plant or any major component of a plant that is capable of producing a commodity identified by the symbol "W" in the column of the Commodity Control List titled "Validated License Required" or appears in the U.S. Munitions List, a written assurance by the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) shall be obtained by the U.S. exporter (via the foreign importer), stating that, unless prior authorization is obtained from the Office of Export Administration, such person will not knowingly:

(a) Reexport, directly or indirectly, to Country Group Q, W, Y, or Z the technical data relating to the plant or the major component of a plant;

(b) Export, directly or indirectly, to Country Group Z the plant or the

<sup>10</sup>Effective April 26, 1971, Country Group W no longer includes Romania. For purposes of assurances executed prior to that date, however, all references to Country Group W continue to apply to Romania as well as to Poland, and all conditions and responsibilities undertaken with respect to Romania remain unchanged.

<sup>11</sup>The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

<sup>12</sup>The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

<sup>9</sup>This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity is under the export control jurisdiction of the Office of Export Administration.

major component of a plant (depending upon which is the direct product<sup>12</sup> of the technical data) or any product of such plant or of such major component if such product of the plant is identified by the symbol "W" in the column of the Commodity Control List titled "Validated License Required" or appears in the U.S. Munitions List; or

(c) Export, directly or indirectly, to Country Group Q, W, or Y the plant or the major component of a plant (depending upon which is the direct product of the technical data), or any product of such plant or of such major component, if such product is identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List, or appears in the U.S. Munitions List.

NOTE.—Effective April 1, 1964 §§ 379.4(f)(2)(ii) (b) and (c) required certain written assurances relating to the disposition of the products of a complete plant or major component of a plant which is the direct product of unpublished technical data of U.S. origin exported under General License GTDR.

Except as to commodities identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List, and items on the U.S. Munitions List, the effective date of the written assurance requirements for plant products as a condition of using General License GTDR for export of this type of technical data is hereby deferred until further notice, subject to the following limitations:

1. The exporter shall, at least two weeks before the initial export of the technical data, notify the Office of Export Administration, by letter, of the facts required to be disclosed in an application for a validated export license covering such technical data; and

2. The exporter shall obtain from the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) a written commitment that he will notify the U.S. Government, directly or through the exporter, whenever he enters into negotiations to export any product of the plant to any destination covered by § 379.4(f)(2)(ii)(b) above, when such product is not identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List and requires a validated license for export to Country Group W by the information set forth in the column titled "Validated License Required." The notification should state the product, quantity, country of destination, and the estimated date of shipment.

Moreover, during the period of deferment, the remaining written assurance requirements of §§ 379.4(f)(2)(ii) (b) and (c) as to plant products that are identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List, or are on the U.S. Munitions List, will be waived if the plant is located in one of the following COCOM countries: Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Italy, Japan, Luxembourg, The Netherlands,

Norway, Portugal, Turkey, and the United Kingdom. This deferment applies to exports of technical data pursuant to any type of contract or arrangement, including licensing agreements, regardless of whether entered into before or after April 1, 1964.

(iii) The required assurance may be in the form of a letter or other written communication from the importer or, if applicable, the person in control of the distribution of the products of a plant; or the assurance may be incorporated into a licensing agreement which restricts disclosure of the technical data to use only in authorized destinations, and prohibits shipment of the direct product<sup>12</sup> thereof by the licensee to any unauthorized destination. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained.

(iv) In addition, this general license is not applicable to any export of technical data of the kind described in this § 379.4(f)(2) if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product<sup>13</sup> to be manufactured abroad by use of the technical data is intended to be exported directly or indirectly to any unauthorized destination.

(v) The limitations set forth in this § 379.4(f)(2) do not apply to the export of:

(a) Technical data included in an application for the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office;

(b) Technical data supporting a price quotation as described in § 379.4(b)(2) above; and

(c) Technical data relating to those commodities listed in a Supplement to Part 377 as being under short supply control.

NOTE.—A written assurance is not required for the export under this General License GTDR of any technical data which do not fall within the description set forth in § 379.4(f) (1) or (2) above.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function

<sup>13</sup>The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,  
Acting Deputy Assistant  
Secretary for Trade Regulation.

[FR Doc. 78-33779 Filed 12-1-78; 8:45 am]

[3510-25-M]

PART 386—EXPORT CLEARANCE

Corrections to Shipper's Export  
Declarations; Correction

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Correction to Final Rule.

SUMMARY: In FR Doc. 78-26834 appearing at page 43450 in the FEDERAL REGISTER of September 26, 1978, the citation "§ 386.3(o)(1)" in the fifth line from the bottom of paragraph 386.3(q)(1) is corrected to read "§ 386.3(o)(1)." In addition, the amendment to paragraph 386.3(q) is corrected to delete subparagraph 386.3(q)(3).

FOR FURTHER INFORMATION  
CONTACT:

Charles C. Swanson, Director, Operations Division Office of Export Administration, Department of Commerce, Washington, D.C. 20230, Telephone: 302-377-4196.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: November 27, 1978.

STANLEY J. MARCUSS,  
Deputy Assistant Secretary  
for Trade Regulation.

[FR Doc. 78-33778 Filed 12-1-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE  
COMMISSION

[Docket No. C-2934]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Bede Aircraft, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

agreement, among other things, requires a Washington, D.C. manufacturer and marketer of aircraft and related products, and its subsidiaries, to provide and administer as prescribed a redress fund of approximately \$9,000,000 for consumers who purchased or made deposits on its products. The firm would be required to cease misrepresenting the availability, performance, reliability and safety of its aircraft; or using any other unfair or deceptive act or practice in the advertising and sale of its products. Additionally, until such time that existing obligations are satisfied, the order would require that all of the firm's stock be placed in the hands of an approved trustee who would oversee its operations and invoke the provisions of the Federal Bankruptcy Act, should it prove necessary.

**DATES:** Complaint and order issued October 26, 1978.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:**

Paul C. Daw, Regional Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 837-2271.

**SUPPLEMENTARY INFORMATION:**

On Monday, June 19, 1978, there was published in the FEDERAL REGISTER, 43 FR 26324, a proposed consent agreement with analysis in the Matter of Bede Aircraft, Inc., a corporation; Bede General Corporation, a corporation; Bede Wing, Inc., a corporation; and James R. Bede, individually and as an officer, director and stockholder of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10-1 Availability of merchandise and/or facilities; § 13.15 Business status, advantages or connection; 13.15-20 Business methods and policies; 13.15-30 Connection or arrangements with others; 13.15-35 Contracts and obligations; 13.15-65 Financial conditions; 13.15-100 History;

13.15-105 Identity; 13.15-195 Nature; 13.15-250 Qualifications and abilities; 13.15-255 Reputation, success, or standing; 13.15-275 Stock, product, or service; § 13.35 Condition of goods; § 13.40 Conditions of manufacture; 13.40-20 Law compliance; § 13.42 Connection of others with goods; § 13.73 Formal regulatory and statutory requirements; § 13.85 Government approval, action, connection or standards; 13.85-60 Standards, specifications, or source; § 13.90 History of product or offering; § 13.142 Operation; § 13.155 Prices; 13.155-5 Additional charges unmentioned; 13.155-55 Government requirements; 13.155-75 Product or quantity covered; 13.155-93 Special or test offers; 13.155-95 Terms and conditions; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.175 Quality of product or service; § 13.180 Quantity; 13.180-30 In stock; § 13.185 Refunds, repairs, and replacements; § 13.190 Results; § 13.195 Safety; 13.195-60 Product; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.245 Specifications or standards conformance; § 13.247 Statutes and regulations; § 13.250 success, use or standing; § 13.260 Terms and conditions; § 13.275 Undertakings, in general. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-35 Employment of independent agencies; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-55 Refunds, rebates, and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed; § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Failing To Maintain Records: § 13.1051 Failing to maintain records; 13.1051-30 Formal regulatory and/or statutory requirements. Subpart—Furnishing Means and Instrumentalities of Misrepresentation or Deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1395 Connections and arrangements with others; § 13.1415 Financial conditions; § 13.1435 History; § 13.1440 Identity; § 13.1490 Nature; § 13.1515 Organization and operation; § 13.1535 Qualifications; § 13.1540 Reputation, success or standing; § 13.1560 Stock, product or service.—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1595 Condition of goods; § 13.1600 Conditions of manufacture and costs; § 13.1623 Formal regulatory and statu-

tory requirements; § 13.1635 Government inspection; § 13.1645 Government standards or specifications; § 13.1650 History of product; § 13.1675 Law or legal requirements; § 13.1680 Manufacture or preparation; § 13.1710 Qualities or properties; § 13.1715 Quality; § 13.1720 Quantity; § 13.1725 Refunds; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use or standing; § 13.1760 Terms and conditions; § 13.1762 Tests, purported; § 13.1765 Undertakings, in general.—Prices: § 13.1778 Additional costs unmentioned; § 13.1815 Government requirements; § 13.1823 Terms and conditions.—Promotional Sales Plans: § 13.1830 Promotional sales plans; Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1850 Content; § 13.1852 Formal regulatory and statutory requirements; § 13.1854 History of products; § 13.1863 Limitations of product; § 13.1875 Non-standard character; § 13.1882 Prices 13.1882-10 Additional prices unmentioned; § 13.1885 Qualities or properties; § 13.1886 Quality, grade or type; § 13.1888 Respondent's interest; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions. Subpart—Securing Orders By Deception; § 13.2170 Securing orders by deception.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-33748 Filed 12-1-78; 8:45 am]

[6360-01-M]

**Title 18—Conservation of Power and Water Resources**

**CHAPTER III—DELAWARE RIVER BASIN COMMISSION**

**PART 420—BASIN REGULATIONS—WATER SUPPLY CHARGES**

**Delaware River Basin Reservoirs; Water Charges**

**AGENCY:** Delaware River Basin Commission.

**ACTION:** Final rule.

**SUMMARY:** This rule changes the rates to be charged for water taken from the Delaware River Basin Reservoirs. The rates will be six cents per thousand gallons for consumptive use of water, and six-tenth of a mill per thousand gallons for nonconsumptive use of water. The water charges which are obtained provide funds for the annual repayment to the Federal Government.

<sup>1</sup>Copies of the Complaint and the Decision and Order filed with the original document.

DATE: These charges are effective the first day of the month following the date of deliberate impoundment of water supply in Blue Marsh Reservoir (estimated to be April, 1979).

FOR FURTHER INFORMATION CONTACT:

Robert L. Godell, Head, Operations Branch, Delaware River Basin Commission, P.O. Box 7360, West Trenton, N.J. 08628, phone: 609-883-9500.

SUPPLEMENTARY INFORMATION:

In 1964 the Commission, acting on behalf of the four Delaware Basin States—New York, Pennsylvania, New Jersey and Delaware—assumed the obligation to repay the Federal Government the investment cost allocated to water supply in Federal reservoirs constructed in the Basin. This commitment was made in accordance with the Water Supply Act of 1958 requiring that non-Federal interests repay water supply costs at Federal reservoirs.

Subsequently, the Commission formulated a water charges program that applies throughout the Basin to new surface water users, and to existing surface water users whose taking is in excess of their legal entitlement. The charge was determined to be the weighted average unit cost of water supply stored in Federal reservoirs on behalf of the Commission, and was designed to be recomputed whenever new or additional storage having different unit costs was added to the system. The revenues thus obtained provide the funds for annual repayment to the Federal Government.

The initial charge, reflecting the costs of the first reservoir, Beltzville, was established in 1974 at 4 cents per thousand gallons for consumptive use and four-tenths of a mill for nonconsumptive use. The second reservoir, Blue Marsh, will become operational early in 1979 and will have unit water supply costs about twice that of Beltzville. Accordingly, on October 25, 1978 the Commission amended its Administrative Manual, Part III, Basin Regulations—Water Supply Charges (18 CFR Part 420) so as to provide that the charge for water shall be six cents per thousand gallons for consumptive use and six-tenths of a mill per thousand gallons for nonconsumptive use. Prior to taking these actions, the Commission held a public hearing on September 27, 1978 in Philadelphia, Pennsylvania. Notice of this hearing appeared at 43 FR 41420. No changes were made in the proposed amendments as a result of the public hearing.

The full text of the Commission's Basin Regulations—Water Supply Charges may be obtained from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey, 08628, and may be examined at

State libraries in New Jersey, New York, Delaware and Pennsylvania.

The Commission's Administrative Manual, Part III, (and Part 420 of title 18 CFR), Basin Regulations—Water Supply Charges is amended as follows:

(1) Amend § 420.41 (a) and (b) so as to read:

§ 420.41 Schedule of water charges.

- (a) Six cents per thousand gallons for consumptive use; and
- (b) Six-tenths of a mill per thousand gallons for nonconsumptive use.

W. BRINTON WHITALL,  
Secretary.

RESOLUTION No. 78-14

A resolution to amend the Administrative Manual, Part III, Basin Regulations—Water Supply Charges, relating to a schedule of water charges.

Whereas, in April 1971, by Resolution No. 71-4, the Commission duly adopted, after public hearing, an amendment to the Comprehensive Plan defining the means by which the Commission will contract for the sale of water and establish rates therefore; and

Whereas, Resolution No. 71-4 provided that the Commission will use the weighted-average unit cost of all water stored by or on behalf of the Commission and the unit cost of water will be determined by dividing all of the Commission's annual project cost by the net yield of the water supply in federal reservoirs constructed pursuant to the Commission's Comprehensive Plan; and

Whereas, Resolution No. 71-4 also provided that costs, rates and charges will be recomputed whenever new or additional storage is provided and as often as necessary to reflect relevant changes in any cost components associated with sustaining specified base flows; and

Whereas, in May 1974, by Resolution No. 74-6, the Commission, after public hearing, amended its Administrative Manual by the addition thereto of Basin Regulations—Water Supply Charges, establishing a system of water supply charges relating to the surface waters of the basin; and

Whereas, Resolution No. 74-6, provided that, until changed, the charge for water shall be four cents per thousand gallons for consumptive use and four-tenths of a mill per thousand gallons for non-consumptive use, such charge then being based on the cost of the water in Beltzville Reservoir; and

Whereas, Resolution No. 74-6, provided that the Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges; and

Whereas, the Blue Marsh Reservoir water supply storage is scheduled to be operational early in calendar year 1979 and the unit cost of water in Blue Marsh Reservoir will be about twice that of Beltzville Reservoir water; now therefore

Be it resolved by the Delaware River Basin Commission:

1. The Administrative Manual, Part III, Basin Regulations—Water Supply Charges, is hereby revised by amending Section 5-3.1 thereof to read as follows:

Section 5-3.1 *Schedule of water charges.* The Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water

charges. Until changed, the charge for water shall be as follows:

- (a) Six cents per thousand gallons for consumptive use; and
- (b) Six-tenths of a mill per thousand gallons for non-consumptive use.

2. This Resolution shall take effect on the first day of the month following the date of deliberate impoundment of water supply in the Blue Marsh Reservoir.

Adopted: October 25, 1978.

SHERMAN W. TRIBBITT,  
Chairman pro tem.

W. BRINTON WHITALL,  
Secretary.

[FR Doc. 78-33774 Filed 12-1-78; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T. D. 78-478]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Importation of Motor Vehicles and Motor Vehicle Equipment

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This document amends the Customs Regulations relating to procedures for entry into the United States of motor vehicles and motor vehicle equipment subject to Federal motor vehicle safety standards prescribed by the Secretary of Transportation under the National Traffic and Motor Vehicle Safety Act of 1966, as amended. The most significant change is the requirement that the importer or consignee of each vehicle or equipment item imported into the United States must file a declaration concerning compliance with the motor vehicle safety standards. The requirement may be waived by the district director of Customs for United States, Canadian, or Mexican registered vehicles arriving via land borders which: (1) were manufactured before applicable safety standards were in force; (2) conform to applicable safety standards and bear the required certification label or tag; or (3) are intended solely for export. Other changes include an extension of the time which a nonconforming vehicle imported solely for purposes of test or experiment may be licensed for use on the public roads and an extension of the time allowed for the submission of a conformity statement, which will be forwarded to the National Highway Traffic Safety Administration (NHTSA) by Customs, for a nonconforming vehicle. Also, if Customs does not receive a bond-release letter from

NHTSA for a nonconforming vehicle or equipment item within 180 days after entry, it will issue a Notice of Redelivery for the vehicle or equipment item.

EFFECTIVE DATE: January 3, 1979.

#### FOR FURTHER INFORMATION CONTACT:

John E. O'Rourke, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5354).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

Section 12.80 of the Customs Regulations (19 CFR 12.80) prescribes procedures for the entry into the United States of motor vehicles ("vehicles") and motor vehicle equipment ("equipment items") subject to the Federal motor vehicle safety standards published by the Department of Transportation in 49 CFR Part 571 under the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381, *et seq.*) ("the Act").

After carefully examining these procedures, the Customs Service ("Customs") and the National Highway Traffic Safety Administration ("NHTSA") determined that substantive changes should be made to aid in the effective administration and enforcement of the Act. Accordingly, on November 20, 1975, Customs published a notice of proposed rulemaking in the FEDERAL REGISTER (40 FR 54002). Interested persons were given until January 22, 1976, to submit relevant written data, views, or arguments. Several commenters, although agreeing in principle with the proposal, raised questions or made suggestions that have resulted in changes to the amendment as proposed.

##### DISCUSSION OF MAJOR COMMENTS

###### MUST A DECLARATION BE SUBMITTED FOR EACH VEHICLE OR EQUIPMENT ITEM?

Several commenters objected to the requirement in proposed § 12.80(b)(1) that a separate declaration be submitted for each vehicle or equipment item offered for importation into the United States. It was suggested that this requirement would result in a large paperwork increase for Customs, NHTSA, and the importer or consignee.

Customs now accepts a single declaration for all vehicles or equipment items on a single entry to which the same declaration relates if identifying information required for each vehicle or equipment item is furnished. Identifying information may be furnished as an attachment to the declaration if the Customs entry number appears on the attachment to clearly identify it as

part of the declaration. A separate declaration is *not* required for each vehicle or equipment item. Section 12.80(c)(4) makes it clear that a declaration may relate to more than one vehicle or equipment item.

###### MUST A DECLARATION BE SUBMITTED FOR VEHICLES OR EQUIPMENT ITEMS WHICH CONFORM OR ARE TO BE EXPORTED?

Several commenters questioned the need for a declaration for—(1) A vehicle or equipment item which conforms to all applicable safety standards and has a certification label attached (proposed § 12.80(b)(1)(i)); and (2) A vehicle or equipment item intended solely for export and merely being shipped through the United States (proposed § 12.80(b)(1)(ii)).

A declaration is required for a vehicle or equipment item entered under these circumstances to relieve Customs officers from examining each vehicle or equipment item to determine if the appropriate label or tag has been affixed and to discourage the use of false labels or tags. This change to the present regulations will more closely align the declaration procedure used for the Federal motor vehicle safety standards with that used for the Federal motor vehicle emission standards in § 12.73 of the Customs Regulations (19 CFR 12.73).

###### COULD ONE DECLARATION BE USED FOR BOTH THE NHTSA SAFETY STANDARDS AND THE EPA EMISSION STANDARDS?

Inasmuch as the importer must now complete one declaration form for NHTSA and another for the Environmental Protection Agency (EPA), several commenters suggested that consideration should be given to the development of a combined form for use by both agencies.

These agencies have considered a combined form, and have concluded that it is not feasible at this time because of the many differences in the National Traffic and Motor Vehicle Safety Act of 1966, as amended, enforced by NHTSA, and the Clean Air Act, as amended, enforced by EPA, relating to imported vehicles and equipment items, and in the regulations of the two agencies implementing these Acts.

###### MUST A BOND BE REQUIRED FOR A VEHICLE OR EQUIPMENT ITEM WHICH WAS NOT MANUFACTURED IN CONFORMITY BUT WHICH HAS BEEN BROUGHT INTO CONFORMITY BEFORE ENTRY?

Two commenters stated that the requirement in proposed § 12.80(c)(1) for posting a bond for the entry, under proposed § 12.80(b)(1)(iv), of a conforming vehicle or equipment item not originally manufactured in conformity, but which has been put into conformity with applicable safety stand-

ards before entry is unwarranted. They noted that the importer is required to declare that the vehicle or equipment item will be brought into conformity with the safety standards prior to sale. Because a false declaration subjects the violator to a possible \$10,000 fine, or imprisonment, or both, under 18 U.S.C. 1001, the commenters questioned the need for the bond.

This bond requirement, provided for in 15 U.S.C. 1397(b)(3), is essentially similar to the present bond requirement in § 12.80(c) for a vehicle or equipment item not conforming to applicable safety standards entered under present § 12.80(b)(2)(iii). Enforcement of the safety standards would be extremely difficult without the control given by the bonding procedure over the submission of false or inaccurate conformance information. Therefore, a bond is being required under §§ 12.80(e)(1) and 12.80(b)(1)(iii) for all vehicles or equipment items not originally manufactured to comply with the safety standards, and the bond requirement is being extended to include a vehicle or equipment item not manufactured in conformity with applicable safety standards but which has been brought into conformity before entry.

###### MUST A BOND BE REQUIRED FOR A VEHICLE NOT PROPERLY CERTIFIED?

One commenter objected to the deletion of present § 12.80(b)(2)(ix), which provides for the entry of a vehicle manufactured in conformity with applicable safety standards but which lacks the proper certification label. Such a vehicle may now be entered without bond if accompanied by a statement of the manufacturer as evidence of original compliance. The commenter contended that the manufacturer's statement of original compliance is as reliable as a certification label affixed to the vehicle.

Customs and NHTSA have reviewed the present procedure and have concluded that the proposed requirement that a bond be furnished for the entry of a conforming but uncertified vehicle, pending affixture of the required certification label, is necessary and aids the effective administration and enforcement of the Act. It has been determined that such a vehicle is to be entered under § 12.80(b)(1)(iii).

###### IS A BOND REQUIRED FOR A VEHICLE WHICH DOES NOT CONFORM BECAUSE READILY ATTACHABLE EQUIPMENT ITEMS HAVE NOT YET BEEN ATTACHED?

Several commenters were concerned that under proposed §§ 12.80(b)(1)(iv) and 12.80(c)(1), a bond would be required for the entry of a vehicle which does not conform to applicable safety standards because readily attachable equipment items necessary for compli-

ance are not attached at the time of entry even though the vehicle would be brought into conformity before being sold at retail. Such a vehicle is entered without bond under present § 12.80(b)(2)(iv).

Customs and NHTSA have determined that requiring a bond for the entry of such a vehicle would serve no useful purpose. In the vast majority of cases, readily attachable equipment items are attached prior to sale at retail. Therefore, § 12.80(b)(1)(ii) makes it clear that such a vehicle may be entered without bond.

**HOW LONG MAY A NONCONFORMING VEHICLE IMPORTED FOR TEST OR EXPERIMENT BE LICENSED FOR USE ON THE PUBLIC ROADS?**

Several commenters contended that the time allowed for the use of a nonconforming vehicle on the public roads for test or experiment under proposed § 12.80(b)(1)(vii) is insufficient. The time proposed was 1 year, and, upon application to and approval by the Administrator, NHTSA, 1 additional year.

Customs and NHTSA agree with these commenters. Under item 864.30, Tariff Schedules of the United States (19 U.S.C. 1202), vehicles intended solely for testing, experimental, or review purposes may be entered duty free under bond for 1 year. This period may be extended for up to 2 additional years, upon annual application to and approval by the Administrator, NHTSA.

**HOW MUCH TIME SHOULD THE IMPORTER BE GIVEN TO SUBMIT A CONFORMITY STATEMENT?**

Several commenters objected to the length of time, provided under proposed § 12.80(c), in which the importer or consignee must produce evidence that a nonconforming vehicle or equipment item has been brought into conformity with applicable safety standards.

Presently, within 90 days, or longer if approved by the district director, the importer or consignee must furnish either a statement that the vehicle or equipment item has been brought into conformity, describing the work performed and identifying the person who did the work, or a statement from the manufacturer certifying original conformity. It had been proposed to increase this time to 120 days with additional time not to exceed 60 days if approved by NHTSA.

The 90 day period has proven to be too short. A vehicle or equipment item is rarely brought into conformity within this period, so requests for extensions of time are liberally granted. Therefore, § 12.80(b)(1)(iii) provides a 120 day period, or a longer period not to exceed 180 days after entry, if

granted by the Administrator, NHTSA, for the importer or consignee to submit a conformity statement to the Administrator, NHTSA.

**TO WHOM SHOULD THE IMPORTER SUBMIT THE CONFORMITY STATEMENT?**

Comments were received concerning the requirement in proposed § 12.80(c) that the conformity statement be delivered to NHTSA rather than Customs. The commenters were concerned that this could delay the administrative process, increase documentation requirements, and unnecessarily disrupt the marketing of imported vehicles.

Section 12.80(c) now requires delivery of a copy of the conformity statement to both Customs and NHTSA. Requiring the importer or consignee to submit a copy of the conformity statement to Customs as well as NHTSA serves no useful purpose because the statement is reviewed by NHTSA. For the same reason, requiring the importer or consignee to submit the conformity statement to Customs, for transmittal to NHTSA, would merely delay processing. For clarity, however, the requirement that the importer or consignee submit the conformity statement to NHTSA has been placed in § 12.80(b)(1)(iii).

**SHOULD CUSTOMS ISSUE A NOTICE OF REDELIVERY IF THE IMPORTER DOES NOT TIMELY SUBMIT A CONFORMITY STATEMENT?**

One commenter favored proposed § 12.80(c)(3) which provides that upon the request of NHTSA, the district director shall issue a Notice of Redelivery for the vehicle or equipment item if the conformity statement is not timely delivered or is determined to be inaccurate or false in a material respect. The commenter correctly noted that this procedure would give the importer or consignee a final notice of his liability under the bond.

Another commenter opposed this change because he believed it would add to Customs' work burden and result in more labor and expense for Customs.

Customs and NHTSA have determined that this procedure will aid the effective administration and enforcement of the Act. However, rather than requiring the district director to issue the Notice of Redelivery upon the request of NHTSA, § 12.80(e)(2) has been revised so that the district director will issue the notice if he does not receive a bond release letter from NHTSA within 180 days after entry of the vehicle or equipment item.

**SHOULD REFERENCE BE MADE TO THE PENALTY PROVISION OF 19 U.S.C. 1592?**

Several commenters opposed proposed § 12.80(d) which provides that a

vehicle or equipment item entered by means of a fraudulent or false entry declaration that is made without reasonable cause to believe the truth of the declaration is subject to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

Three commenters suggested that specific reference to 19 U.S.C. 1592 is unnecessary because it applies to any entry made by means of a fraudulent or false claim. Furthermore, any person who knowingly makes a false declaration is subject to a \$10,000 fine, imprisonment, or both under 18 U.S.C. 1001. A warning to this effect is printed on the NHTSA declaration form.

One commenter stated that (1) if the conformity statement is not delivered, is inaccurate, or is false in a material respect, redelivery or exportation of the nonconforming vehicle or equipment item may be required under proposed § 12.80(c)(3); (2) if the importer or consignee fails to redeliver or export the vehicle or equipment item, liquidated damages are assessed under the bond; and (3) forfeiture of a vehicle or equipment item under 19 U.S.C. 1592 therefore should not be permitted.

Customs and NHTSA have determined that reference to 19 U.S.C. 1592 is proper because it alerts a person less experienced than a commercial importer that he may be subject to liability under the statute if he submits a declaration without reasonable cause to believe it is true. Furthermore, liquidated damages under a bond for failure to redeliver or export a nonconforming vehicle or equipment item cannot be assessed in all instances because a bond is not required for every vehicle and equipment item entered under this section.

Because of amendments made to 19 U.S.C. 1592 by Public Law 95-410, the "Customs Procedural Reform and Simplification Act of 1978," it was necessary to revise proposed § 12.80(d), which has been renumbered as § 12.80(g). Revised § 12.80(g) provides that any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction of a vehicle or equipment item by means of a fraudulent or false declaration may incur liabilities under 19 U.S.C. 1592. Proposed § 12.80(d) provided that a vehicle or equipment item introduced into the United States by means of a fraudulent or false declaration is subject to forfeiture under 19 U.S.C. 1592.

**DISCUSSION OF OTHER CHANGES**

**VEHICLES ENTERING VIA LAND BORDERS**

Under proposed § 12.80(b)(1), a written declaration would have been required for each vehicle or equipment item imported into United States,

except as provided for in paragraphs (b)(1)(iii) and (b)(1)(v). The first exception gave Customs the option of accepting an oral declaration for vehicles of Canadian or Mexican registry entering at the Canadian or Mexican border which were manufactured on a date when no applicable safety standards were in force. The second exception provided that persons regularly entering the United States by a motor vehicle at the Canadian or Mexican border may apply to Customs for an appropriate means of identification to be affixed to the vehicle and used in place of the declaration.

However, because of the growing number of motor vehicles entering the United States, Customs has determined that enforcement of § 12.80(b)(1), as proposed, would be impracticable. In fiscal year 1976, more than 75,000,000 passenger vehicles entered the United States. The vast majority of these vehicles was manufactured after January 1, 1968, and therefore would not be entitled to entry under the oral declaration provision. Although some of these vehicles might be exempted from the declaration requirements under the nonresident identification tag exception, there would be no exception for returning U.S. residents whose cars were manufactured after January 1, 1968, nonresidents who are occasional border crossers, or nonresidents who, though frequent border crossers, have not applied for identification tags.

Customs and NHTSA have carefully reviewed this problem and have decided to delete the exceptions in proposed §§ 12.80(b)(1)(iii) and 12.8(b)(1)(v). Section 12.80(f) provides that the requirement that a declaration be filed under paragraphs (b)(1)(i), (b)(1)(ii), or (b)(1)(v) may be waived by the district director for a United States, Canadian, or Mexican registered vehicle arriving via land borders. This change will permit Customs to carry out its enforcement responsibilities with respect to the importation of vehicles and equipment items subject to the Federal motor vehicle safety standards without creating an unreasonable burden on the traveling public.

#### NONRESIDENTS OF THE UNITED STATES

Proposed § 12.80(b)(1)(v), would have required a nonresident of the United States importing a vehicle or equipment item primarily for personal use for a period of not more than 1 year from the date of entry to indicate his passport number and country of issue on the declaration. That section now requires the nonresident to state his passport number and country of issue only if he has a passport.

#### PROCESSING THE DECLARATION

A new § 12.80(d) has been added which provides that the district director will forward to NHTSA the original of each declaration submitted to him under § 12.80(b)(1) as soon as practicable.

#### PROCESSING THE CONFORMITY STATEMENT

Under proposed §§ 12.80(c)(2) and 12.80(c)(3), NHTSA would have advised the district director when the bond required for entry of a vehicle or equipment item under proposed § 12.80(b)(1)(iv) could be released. If the importer or consignee's conformity statement were not delivered to NHTSA within the specified time, or if the statement were inaccurate or false in a material respect, upon the request of NHTSA, the district director would have issued a Notice of Redelivery for the vehicle or equipment item.

This procedure has been changed. Under § 12.80(e)(1), if NHTSA approves the conformity statement, it will forward a notice of acceptance (bond release letter) to the district director. If the bond release letter is not received by the district director within 180 after entry, § 12.80(e)(2) provides that he shall issue a Notice of Redelivery for the vehicle or equipment item. These changes make the procedure for processing a conformity statement more logical and predictable and easier to administer.

#### FOREIGN AND INTERNATIONAL ORGANIZATION OFFICIALS

As proposed, § 12.80(b)(1)(vi) requires an importer or consignee of a vehicle or equipment item imported for purposes other than resale, who is included within one of the following classes of persons, to attach a copy of his official orders to the declaration—

(1) A member of the armed forces of a foreign country on assignment in the United States;

(2) A member of the Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or

(3) A member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State.

A person in the third class of importers or consignees may state on the declaration the name of the embassy to which he is accredited instead of attaching a copy of his official orders to the declaration.

These new requirements provide a greater degree of control over the importation of nonconforming vehicles

and equipment items by these individuals.

#### VEHICLES OR EQUIPMENT ITEMS IMPORTED FOR SHOW, COMPETITION, REPAIR OR ALTERATION

The requirement under proposed § 12.80(b)(1)(vii) that the declaration for a vehicle or equipment item imported for show, competition, repair, or alteration contain a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition is now in § 12.80(c)(2).

#### EDITORIAL CHANGES

Proposed § 12.80(b)(1) has been revised so that paragraphs (b)(1)(i) through (b)(1)(ix) consist only of what the importer or consignee actually declares or affirms.

For a more logical sequence, proposed § 12.80(b)(1)(i) has been renumbered § 12.80(b)(1)(ii), proposed § 12.80(b)(1)(ii) has been renumbered § 12.80(b)(1)(iv), proposed § 12.80(b)(1)(iii) has been renumbered § 12.80(b)(1)(i), and proposed § 12.80(b)(1)(iv) has been renumbered § 12.80(b)(1)(iii).

Proposed § 12.80(b)(2) has been revised and renumbered § 12.80(c)(1). It lists the contents required on each declaration. Section 12.80(b)(2) now contains the provision in proposed § 12.80(b)(1)(vii) for licensing a vehicle imported solely for the purpose of test or experiment for use on the public roads.

Sections 12.80 (c)(2) and (c)(3) contain certain additional requirements for a declaration filed for a vehicle imported for the purpose of show, competition, repair, or alteration, and test or experiment, respectively.

Numerous other editorial changes have been made to make the regulation more understandable.

#### DRAFTING INFORMATION

The principal author of this document was Paul G. Hegland, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the National Highway Traffic Safety Administration participated in developing the document both on matters of substance and style.

#### AMENDMENT TO THE REGULATIONS

#### PART 12—SPECIAL CLASSES OF MERCHANDISE

Section 12.80 of the Customs Regulations (19 CFR 12.80) is revised to read as follows:

§ 12.80 Federal motor vehicle safety standards.

(a) *Standards prescribed by the Department of Transportation.* Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery for introduction in interstate commerce, or importation into the United States are subject to Federal motor vehicle safety standards ("safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407) ("the Act"), and set forth in 49 CFR Part 571. A motor vehicle ("vehicle") or item of motor vehicle equipment ("equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the Customs territory of the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

(b) *Requirements for entry and release.* (1) Unless the requirement for filing is waived by the district director as provided for in paragraph (f) of this section, each vehicle or equipment item offered for introduction into the Customs territory of the United States shall be denied entry unless the importer or consignee files with the entry a declaration, in duplicate, which declares or affirms one of the following:

(i) The vehicle or equipment item was manufactured on a date when no applicable safety standards were in effect.

(ii) The vehicle or equipment item conforms to all applicable safety standards (or, the vehicle does not conform solely because readily attachable equipment items which will be attached to the vehicle before it is offered for sale to the first purchaser for purposes other than resale are not attached) and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item, or to the outside of the container in which the equipment item is delivered, in accordance with regulations issued by the Secretary of Transportation (49 CFR Parts 555, 567, 568 and 571) under section 114 of the Act (15 U.S.C. 1403).

(iii) The vehicle or equipment item was not manufactured in conformity with all applicable safety standards, but it has been or will be brought into conformity. Within 120 days after entry, or within a period not to exceed 180 days after entry, if additional time is granted by the Administrator, National Highway Traffic Safety Administra-

tion ("Administrator, NHTSA"), the importer or consignee will submit a true and complete statement to the Administrator, NHTSA, identifying the manufacturer, contractor, or other person who has brought the vehicle or equipment item into conformity, describing the exact nature and extent of the work performed, and certifying that the vehicle or equipment item has been brought into conformity, and that the vehicle or equipment item will not be sold or offered for sale until the Administrator, NHTSA, issues an approval letter to the district director stating that the conditions of the bond required by paragraph (e)(1) of this section have been satisfied.

(iv) The vehicle or equipment item is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(v) The importer or consignee is a nonresident of the United States, is importing the vehicle or equipment item primarily for personal use for a period not exceeding 1 year from the date of entry, will not sell it in the United States during that period, and has stated his passport number and country of issue, if he has a passport, on the declaration.

(vi) The importer or consignee is a member of the armed forces of a foreign country on assignment in the United States; a member of the Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or a member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State; is importing the vehicle or equipment item for purposes other than resale; and a copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which he is accredited is stated on the declaration).

(vii) The vehicle or equipment item is imported solely for the purpose of show, test, experiment, competition (a vehicle the configuration of which at the time of entry is such that it cannot be licensed for use on the public roads is considered to be imported for the purpose of competition), repair or alteration, and the statement required by 19 CFR 12.80(c)(2) or (c)(3) is attached to the declaration.

(viii) The vehicle was not manufactured primarily for use on the public roads and is not a "motor vehicle" as

defined in section 102 of the Act (15 U.S.C. 1391).

(ix) The vehicle is an "incomplete vehicle" as defined in 49 CFR Part 568.

(2) A vehicle imported solely for the purpose of test or experiment which is the subject of a declaration filed under paragraph (b)(1)(vii) of this section may be licensed for use on the public roads for a period not to exceed 1 year from the date of importation if use on the public roads is an integral part of the test or experiment. The vehicle may be licensed for use on the public roads for one or more further periods which, when added to the initial 1 year period, shall not exceed a total of 3 years, upon application to and approval by the Administrator, NHTSA.

(c) *Declaration; contents.* (1) Each declaration filed under paragraph (b)(1) of this section shall include the name and address in the United States of the importer or consignee, the date and the entry number (if applicable), the make, model, and engine and body serial numbers, or other identification number (if a vehicle), or a description of the item (if an equipment item), and shall be signed by the importer or consignee.

(2) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle or equipment item reported for the purpose of show, competition, repair, or alteration shall have attached a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition.

(3) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle imported solely for the purpose of test or experiment shall have attached a statement fully describing the test or experiment, the estimated period of time necessary to use the vehicle on the public roads, and the disposition to be made of the vehicle after completion of the test or experiment.

(4) Any declaration filed under paragraph (b)(1) of this section may, if appropriate, relate to more than one vehicle or equipment item imported on the same entry.

(d) *Declaration; disposition.* The district director shall forward the original of each declaration submitted to him under paragraph (b)(1) of this section as soon as practicable to the Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Washington, D.C. 20590.

(e) *Release under bond.* (1) If a declaration is filed under paragraph (b)(1)(iii) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 in the

amount required by section 113.14 of this chapter. A condition of the bond shall be the production of an approval (bond release) letter from the Administrator, NHTSA, stating that the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards. The bond release letter shall be issued upon approval by the Administrator, NHTSA, of the conformity statement submitted by the importer or consignee as provided for in paragraph (b)(1)(iii) of this section. The bond release letter shall be forwarded by the Administrator, NHTSA, to the district director with a copy to the importer or consignee.

(2) If the bond release letter is not received by the district director within 180 days after entry, the district director shall issue a Notice of Redelivery, Customs Form 4647, requiring the redelivery to Customs custody of the vehicle or equipment item. If the vehicle or equipment item is not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the Notice of Redelivery, liquidated damages shall be assessed in the full amount of a bond given on Customs Form 7551. If the transaction has been charged against a bond given on Customs Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been assessed against a bond given on Customs Form 7551.

(f) *Waiver of declaration requirements.* The requirement that a declaration be filed under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(v) of this section as a condition to the introduction of a vehicle or equipment item into the Customs territory of the United States may be waived by the district director for a United States, Canadian, or Mexican registered vehicle arriving via land borders.

(g) *Vehicle or equipment item introduced by means of a fraudulent or false declaration.* Any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction, of a vehicle or equipment item into the Customs territory of the United States by means of a fraudulent entry declaration, or by means of a false entry declaration made without reasonable cause to believe the truth of the declaration, may incur liabilities under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(h) *Vehicle or equipment item denied entry.* If a vehicle or equipment item is denied entry under the provisions of paragraph (b) of this section, the district director shall refuse to release the vehicle or equipment item for entry into the Customs territory of

the United States and shall issue a notice of that refusal to the importer or consignee.

(i) *Disposition of vehicle or equipment item denied entry; redelivery.* A vehicle or equipment item denied entry under paragraph (b) of this section, or redelivered to Customs custody under paragraph (e) of this section, which is not exported under Customs supervision within 90 days from the date of the notice of denial of entry or date of redelivery, shall be disposed of under applicable Customs laws and regulations, except that disposition shall not result in the introduction of the vehicle or equipment item into the Customs territory of the United States in violation of the Act.

(R.S. 251, as amended, secs. 592, 623, 624, 46 Stat. 750, as amended, 759, as amended, sec. 108, 80 Stat. 722, as amended (19 U.S.C. 66, 1592, 1623, 1624; 15 U.S.C. 1397).)

ROBERT E. CHASEN,  
*Commissioner of Customs.*

Approved: November 6, 1978.

RICHARD J. DAVIS,  
*Assistant Secretary,  
Enforcement and Operations.*

JOAN CLAYBROOK,  
*Administrator, National Highway Traffic Safety Administration.*

JUNE 21, 1978.

[FR Doc. 78-33782 Filed 12-1-78; 8:45 am]

#### [4910-22-M]

#### Title 23—Highways

#### CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

#### SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

[FHWA Docket No. 78-30]

#### PART 625—DESIGN STANDARDS FOR HIGHWAYS

#### Revision to Update Publications

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the section of regulations dealing with design standards for highways in order to include the new editions of Standard Specifications for (1) Highway Bridges and (2) Transportation Materials and Methods of Sampling and Testing.

DATES: Comments must be received on or before March 5, 1978.

EFFECTIVE DATE: November 29, 1978.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-30, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

Frank D. Sears, Office of Engineering (Bridge Standards), 202-426-7680; John J. Carroll, Office of Highway Operations (Materials Standards), 202-426-0420; or Virginia Cherwek, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

#### SUPPLEMENTARY INFORMATION:

The Federal Highway Administration incorporates by reference into Part 625, 23 CFR, the most recent edition of the Standard Specifications for Highway Bridges and that of Standard Specifications for Transportation Materials and Methods of Sampling and Testing which are published by the American Association of State Highway and Transportation Officials (AASHTO). These editions include all of the material contained in the previous editions, as well as all of the official annual revisions.

The minimal impact of this revision on the public precludes the necessity for preparation of an evaluation report by the Federal Highway Administration.

Anyone wishing to submit written comments related to this revision is advised to submit them to FHWA Docket No. 78-30. These comments will be considered in processing future revisions to this regulation.

In consideration of the foregoing, the Federal Highway Administration hereby amends Chapter I of Title 23, Code of Federal Regulations, Part 625 as follows:

1. Revising paragraphs (b)(1) and (d)(2) of § 625.3 to read as follows:

§ 625.3 Standards, specifications, policies, guides, and references.

(b)(1) *Standard Specifications for Highway Bridges*, Twelfth Edition, AASHTO 1977, and *Interim Specifications, Bridges*, AASHTO 1978.

(d) \* \* \*  
(2) *Standard Specifications for Transportation Materials and Methods of Sampling and Testing*, AASHTO 1978, Part I and Part II.

2. Amend the incorporation by reference note at the end of § 625.3 to read as follows:

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register on November 17, 1975, October 27, 1976, September 27, 1977, October 13, 1977, January 9, 1978, and September 29, 1978. These documents are on file in the Federal Register Library.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E. O. 12044.

(23 U.S.C. 109, 315; 49 CFR 1.48(b)).

Issued on: November 16, 1978.

KARL S. BOWERS,  
Federal Highway  
Administrator.

[FR Doc. 78-33755 Filed 12-1-78; 8:45 am]

[3710-08-M]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE  
ARMY

PART 553—ARMY NATIONAL  
CEMETERIES

Bicyclist Restrictions

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This document amends the cemetery regulations to restrict bicycle traffic within Arlington National Cemetery to Meigs Drive, Sherman Drive, and Schley Drive. Restricting bicyclists to the established route will afford commuters the most direct route through the cemetery, away from the heaviest traveled areas in the interest of both safety and minimal conflict with cemetery operations. With the exception of the bicycle throughfare, the new rule will extend regulatory criteria equally to all vehicular traffic. Bicyclists visiting the cemetery may use the bicycle racks provided at the Visitors' Center and may choose the convenience of tour-mobiles with attendant tour guides or they may walk through the cemetery grounds.

EFFECTIVE DATE: This amendment is effective on November 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Colonel Ellsworth S. Clarke (Area Code 202-693-0882).

SUPPLEMENTARY INFORMATION: Proposed rule restricting bicyclists to specific roads within the cemetery was published in the FEDERAL REGISTER on July 13, 1978 (43 FR 30075). Interested parties were given an opportunity to submit comments to the Department of the Army concerning the proposed restriction until August 15, 1978. A discussion of comments received is contained in the following paragraphs:

DISCUSSION OF MAJOR COMMENTS

1. Nineteen comments were received objecting to the proposed restrictions. The principal objections came from bicycle commuters who were of the opinion that they were being penalized by the actions of a few. A few comments suggested alternate routes to serve a growing number of commuters. There were other comments which recommended the enforcement of ordinances/regulations to apprehend and punish violators and control anti-social behavior.

2. One comment requested that letters of complaint be made available for public examination under the Freedom of Information Act. Copies of letters concerning bicyclists in the cemetery were furnished the respondent. Names and other identifying data of private citizens were withheld in accordance with the Privacy Act.

3. In response to a request from the Environmental Protection Agency (EPA), a meeting was held with representatives of other interested government agencies on September 21, 1978 to discuss the proposed rule. A general overview of the proposal and route was presented by Army representatives. Data substantiating that the proposed route is safe and is utilized by the majority of bicyclists entering the cemetery was provided. One agency representative suggested that the gate at Patton Drive and Eisenhower Drive be made accessible to commuting bicyclists. This suggestion was not adopted as that gate is directly adjacent to the service complex where heavy equipment traffic negotiating this confined area would present safety problems. Another agency representative requested that consideration be given to allow groups of organized bicyclists to tour the cemetery grounds. This request was considered and is found to be reasonable. However, prior written application to the Cemetery Superintendent is required. Requests must indicate the nature/sponsor of the cycling group, identification of the individual in charge, approximate number of cyclists in the group, and the proposed itinerary. Groups will be granted written permis-

sion which may include restrictions to the proposed itinerary as are necessary to assure that conflict with cemetery operations will not occur.

4. Comments favoring adoption of the proposed rule were received from various national veterans organizations as well as private citizens. The majority of comments advocated closure of the cemetery to all bicycle riding to preserve privacy and maintain the dignity and honor of the cemetery.

5. In evaluating the proposed rule to restrict bicycle traffic to certain routes within Arlington National Cemetery, an environmental impact assessment was made. Since access to the cemetery is not restricted, and since a thoroughfare for serious commuters continues to be allowed, it was determined that no significant environmental impact would result from adoption of the rule, nor would its implementation be environmentally controversial.

In consideration of the foregoing, 32 CFR § 553.22 is amended by adding a reference to paragraph (h) in the 14th line of § 553.22(b) and by adding a new paragraph (h) to the section as follows:

§ 553.22 Visitors' rules for the Arlington National Cemetery.

(a) \* \* \*

(b) Scope \* \* \* in paragraphs (c), (d), (e), (f), (g), and (h) of \* \* \*.

\* \* \* \* \*

(h) Bicycle traffic will be restricted within the cemetery to Meigs Drive, Sherman Drive, and Schley Drive. All other bicycle traffic will be directed to the Visitors' Center where bicycle racks are provided. Exceptions for bicycle touring groups may be authorized in advance and in writing by the Superintendent. An individual visiting a relative's gravesite will be issued a temporary pass which will permit the bicyclists to proceed to the gravesite.

\* \* \* \* \*

By authority of the Secretary of the Army.

Dated: November 30, 1978.

ANN B. SMITH,  
Colonel, U.S. Army, Director,  
Personal Affairs, TAGCEN.

[FR Doc. 78-33749 Filed 12-1-78; 8:45 am]

[6560-01-M]

## Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL  
PROTECTION AGENCY

## SUBCHAPTER C—AIR PROGRAMS

[FRL 1017-6]

PART 52—APPROVAL AND PROMULGATION  
OF IMPLEMENTATION  
PLANSApproval and Revision of District of  
Columbia Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** This notice announces the Administrator's approval of an amendment to the District of Columbia's air pollution control regulations as a revision of the District's Implementation Plan (SIP). The amendment revises the requirement for "no visible emissions" at any time to a requirement that would not permit any visible emissions except for up to 40% opacity for a period of two minutes in any 60 minute period and for an aggregate of 12 minutes in any 24-hour period during "start-up", cleaning, soot blowing, adjustment of combustion controls of boilers and/or unavoidable malfunction of equipment. (The current federal regulation prohibits visible emissions at any time.)

**EFFECTIVE DATE:** December 4, 1978.

**ADDRESSES:** Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Harold A. Frankford (3AH12).

District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue, S.W., Washington, D.C. 20032, ATTN: Mr. John V. Brink.

Public Information Reference Unit, Room 2922 EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Harold A. Frankford (3AH12) Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; telephone: (215) 597-8392.

## SUPPLEMENTARY INFORMATION:

## I. BACKGROUND

On March 3, 1977, the District of Columbia submitted to the Regional Administrator, EPA Region III, an amendment to the District's Air Quality Control Regulations and requested that it be reviewed and processed as a revision of the District of Columbia's Implementation Plan (SIP). In accordance with 40 CFR 51.4, the District certified that a public hearing had been held on May 25, 1976.

The amendment consists of changes to § 8-2:713 (Visible Emissions) of the District's regulations. This amended regulation is applicable to all stationary sources located within the District and, in part, reads as follows:

" \* \* \* no person shall cause, suffer, or allow to be emitted into the outdoor atmosphere, visible emissions from stationary sources: *Provided*, That discharges not exceeding 40% opacity (or No. 2 on the Ringelmann Smoke Chart) shall be permitted for 2 minutes in any 60-minute period and for an aggregate of 12 minutes in any 24-hour period. These discharges shall be allowed only for start-up, cleaning, soot blowing, adjustment of combustion controls of boilers, and/or unavoidable malfunction of equipment \* \* \*"

The original Section 8-2:713, as approved by the Administrator, permitted discharges for "start-up", cleaning, soot blowing, and/or adjusting combustion controls of boilers not exceeding 40% opacity (No. 2 on the Ringelmann Chart) for 4 minutes in any 60-minute period and for an aggregate of 24 minutes in any 24-hour period, until August 31, 1973. After that date, no visible discharges are permitted at any time.

The March 3, 1977 amendment supersedes a prior amendment to Section 8-2:713 which had been submitted by the District on May 24, 1974 and proposed as a revision of the District's Implementation Plan on July 11, 1974 (39 FR 25502). Following a prolonged period of discussion between EPA and the District of Columbia concerning the approvability of the amendments of SIP revisions, the District of Columbia agreed to withdraw its prior amendment.

On August 8, 1978 (43 FR 35072), the Administrator simultaneously withdrew the May 24, 1974 amendment to Section 8-2:713 from further consideration as a plan revision and proposed instead, the March 3, 1977 amendment to Section 8-2:713 as a revision of the District's SIP. A 30-day public comment period was provided, during which time no public comments were received.

II. APPROVABILITY OF THE PROPOSED  
REVISION

A request for a revision of a SIP must be approved by the Administrator if the revision meets the requirements of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. In this case, the mass emission limitation contained in the plan is not being changed. Instead, the District has only requested that the SIP's visible emission requirements be modified to allow for periodic short-term visible emissions during "start-up", cleaning, soot blowing, adjustment of combustion controls of boilers, and/or unavoidable malfunction of equipment. Such emissions are a part of normal operation and maintenance functions of combustion sources. The basic substantive requirement for approval of this revision is that the revision will not interfere with attainment or maintenance of the national ambient air quality standards.

Where emissions from a flue are addressed by a mass emissions limitation and a visible emissions requirement, the mass emissions limitation is controlling in any air quality demonstration that may be needed to insure attainment and maintenance of the national standards. Where both visible and mass emissions limitations are approved by the Administrator, both are properly a part of the SIP. At present, the District of Columbia SIP requires that a source may never have any visible emissions. However, the mass emissions limitation contained in the SIP (Section 8-2:708) does not impose an absolute ban on the discharge of particulate matter. Instead, a finite quantity of particulate matter emissions is permissible under the applicable mass emissions limitations. The Agency believes that the quantity of emissions permitted by the amendment to the District's regulations does not exceed those mass emissions limitations, and therefore the "no visible emissions" requirement is more restrictive than necessary to accomplish the objectives of Sections 110(a)(2) and (a)(3) of the Clean Air Act.

Consequently, the Agency believes that the amendment to the District's regulations submitted on March 3, 1977 does not interfere with attainment or maintenance of the national ambient air quality standards for particulate matter. Therefore, the Administrator approves the amendment to Section 8-2:713 submitted by the District on March 3, 1977 as a revision of the District's Implementation Plan, effective immediately. Concurrently, the Administrator amends 40 CFR 52.470 (Identification of Plan) of Subpart J (District of Columbia) to incorporate this plan revision into the District's SIP.

42 U.S.C. 7401

Dated: November 27, 1978.

DOUGLAS M. COSTLE,  
*Administrator.*

Part 52 of Title 40, Code of Federal Regulations is amended by revising § 52.470 (c)(11) to read as follows:

**Subpart J—District of Columbia**

§ 52.470 Identification of Plan.

(c) The plan revisions listed below were submitted on the dates specified

(11) Amendments to Sections 8-2:704 (Use of Certain Fuel Oils Forbidden), 8-2:705 (Use of Certain Coal Forbidden), and 8-2:713 (Visible Emissions) of the District of Columbia Air Quality Control Regulations submitted on March 3, 1977 by the Mayor.

[FR Doc. 78-33593 Filed 12-1-78; 8:45 am]

[6560-01-M]

**SUBCHAPTER R—TOXIC SUBSTANCES CONTROL**

[FRL 1008-4]

**PART 730—HEALTH AND SAFETY STUDY REPORTING REGULATIONS**

**Final Rule; Corrections**

AGENCY: Environmental Protection Agency.

ACTION: Typographical corrections to preamble of final rule.

SUMMARY: In its citizens' petition of September 12, 1978, referenced elsewhere in today's edition of the FEDERAL REGISTER, the Manufacturing Chemists Association (MCA) noted one minor typographical error in the preamble to the final regulations promulgated in the July 18, 1978 FEDERAL REGISTER (43 FR 30984) under section 8(d) of the Toxic Substances Control Act (TSCA) 15 U.S.C. 2620. These regulations concerned health and safety study reporting requirements under the TSCA. MCA also noted a minor typographical error in the rule correction of August 16, 1978 (43 FR 36249). These errors are corrected herein.

In the section on confidential claims procedures on page 30986 of the July 18, 1978 FEDERAL REGISTER the reference in the first column, second paragraph, fourth line should read "§ 730.8" instead of "§ 730.7."

On page 36249 of the August 16, 1978 FEDERAL REGISTER the second sentence in the quoted material—"Mixtures which contain only very small amounts of a substance whose

effects are masked need not be submitted"—should contain the words "Studies of" before the first word.

**FOR FURTHER INFORMATION CONTACTOR:**

John B. Ritch, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 800-424-9065.

Dated: November 22, 1978.

DOUGLAS M. COSTLE,  
*Administrator.*

[FR Doc. 78-33725 Filed 12-1-78; 8:45 am]

[3510-03-M]

**Title 46—Shipping**

**CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE**

**SUBCHAPTER H—TRAINING**

**PART 310—MERCHANT MARINE TRAINING**

**Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy**

**PAY INCREASE**

AGENCY: Maritime Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Maritime Administration amends its regulations relating to merchant marine training to increase the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training. The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

EFFECTIVE DATE: January 20, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Arthur Friedberg, Director, Office of Maritime Manpower (202) 377-3018.

SUPPLEMENTARY INFORMATION: Part 310 of Title 46 of the Code of Federal Regulations is hereby amended. This amendment increases the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training.

The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

The rate of pay received by midshipmen while assigned to subsidized merchant vessels is a matter of public contract with the owners of such vessels. Also, this amendment has been determined not to be a significant regulation within the scope of E.O. 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), as implemented by criteria in Appendix F of a Notice in the FEDERAL REGISTER of May 30, 1978, (43 FR 23184), as amended. Therefore, this amendment to the Merchant Marine Training regulations is adopted without notice of proposed rulemaking.

Part 310 of Title 46 of the Code of Federal Regulations is amended by revising the first sentence of paragraph (c) of § 310.58 to read as follows:

§ 310.58 Training on subsidized vessels.

(c) *Pay*—Midshipmen shall receive pay, while attached to merchant vessels, at the rate of \$351.00 per month from their steamship company employers.

*Effective date.* This amendment shall become effective January 20, 1979.

(Section 204A(b), Merchant Marine Act, 1936, as amended (49 Stat. 1987, 46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Order 10-8 (38 FR 19707, July 23, 1973).)

Catalog of Federal Domestic Assistance Program No. 11-507 U.S. Merchant Marine Academy (Kings Point).

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: November 27, 1978.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,  
*Secretary.*

[FR Doc. 78-33768 Filed 12-1-78; 8:45 am]

[4910-60-M]

## Title 49—Transportation

## CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-160; Amdt. Nos. 172-47, 173-123, 174-33, 175-7, 176-6, 177-44]

## TRANSPORTATION OF ASBESTOS

## Miscellaneous Amendment

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final Rule.

SUMMARY: These amendments require shipments of commercial asbestos fibers to be packaged in rigid, airtight or dust and sift proof packagings. Except when the shipment is by private carrier, non-rigid packages, such as bags, must be palletized and unitized using shrink-wrapping or strapped fiberboard wrapping. These amendments represent minimum safety requirements and are intended to reduce the risks to the public health associated with the generation of airborne concentrations of asbestos that may result from the packaging and handling of asbestos fiber shipments in commercial transportation.

EFFECTIVE DATE: These regulations are effective April 30, 1979.

ADDRESS: All written comments received in this rulemaking action are available for examination during regular business hours in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

## FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Standards Division, Materials Transportation Bureau, Research and Special Programs Administration, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-2075.

SUPPLEMENTARY INFORMATION: On March 2, 1978, a notice of proposed rulemaking (HM-160; Notice 78-3) was published in the FEDERAL REGISTER (43 FR 8562) stating that the MTB was planning to exercise regulatory control over the transportation of asbestos. Specific regulatory requirements were proposed for the control of certain forms of asbestos (e.g., milled or crude asbestos fibers). No requirements were proposed for asbestos fibers which are immersed or fixed in a natural or artificial binder material, or for manufactured products containing asbestos. Interested persons were invited to participate in the rulemaking proceeding through submission of written comments on the proposal to

the MTB. All submissions, including late submissions, that were received on the proposal were fully considered by the MTB in the development of this final rule.

## NEED TO REGULATE THE TRANSPORTATION OF ASBESTOS

Several commenters felt that the MTB had failed to establish a need to regulate the transportation of asbestos. One of the commenters suggested that there was no need for the proposed regulatory control of asbestos in transportation because the "methods and procedures now in use for the packaging and transport of asbestos meet the requirements of Part 173.24(A)(sic) of the Transportation Act, that is 'under conditions normally incident to transportation there will be no significant release of the hazardous materials to the environment' and 'the effectiveness of the packaging will not be substantially reduced \* \* \* (t)he proposal contains no documentation to justify additional regulation.'" This commenter, while apparently believing that asbestos is a hazardous material, was incorrect in suggesting that asbestos is currently regulated by the MTB; or in suggesting that the purpose of Notice 78-3 was to justify the additional regulation by the MTB of asbestos in transportation. The transportation of asbestos is not now regulated by the MTB. It was precisely the purpose of Notice 78-3 that it should be. If, as the commenter suggests, the transportation of asbestos is now "in compliance with pertinent provisions of the Transportation Act," this rulemaking action will formalize and insure in a uniform and systematic manner that this is the case.

Another commenter stated that Notice 73-8 did "not establish a foundation for regulation, in that it does not document, or even allege for that matter, the actual release of fiber during the transportation of asbestos." As was pointed out in Notice 78-3, the MTB has "no detailed information on the amount of asbestos fibers released during transportation." The MTB does not now regulate asbestos, and has not therefore systematically collected accident data on the amounts of asbestos released in transportation or data on the frequency of such accidents. Most asbestos fiber, however, is currently shipped in bags, and it is undeniable that these bags can and do break, or can be and are being torn or punctured, with a consequent release of some or all of the bag contents. It can be speculated, moreover, that if all of the 750,000 tons of asbestos annually shipped in the United States were packaged in, as one commenter states, the "standard package" of a 100-pound bag; and if as little as one-tenth of one percent of these bags were damaged in

transportation during the year (one out of a thousand) and if on the average 1 percent of the contents of the bags so damaged were released, the total amount of asbestos released per year would equal about 7.5 tons. These calculations give a general idea of the magnitude of asbestos fiber that would be released, given a 99.9 percent efficiency factor for "bag integrity" in transportation, and a 99.0 percent efficiency factor in minimizing the amount of asbestos released given a tear in the bag. The rather evident fact that asbestos has been accidentally released during transportation has not been contradicted by anything submitted to the public docket on this rulemaking action. One commenter, for example, in discussing the use of open-bed trailers with side racks and tarpaulins to transport asbestos stated that there is no evidence that the use of such trailers "has contributed to bag breakage and the release of airborne concentrations of asbestos fiber." The Asbestos Information Association, an incorporated nonprofit organization representing 51 firms in the United States and Canada engaged in the manufacture or processing of asbestos-containing products and the mining/milling of asbestos fibers, stated that with "the very large volume of asbestos shipped, occasional container damage may occur."

Although several commenters who discussed this matter do not contend that asbestos has not been released in transportation, they generally are of the view that the amounts that are being released are not significant or of a sufficient amount to pose an unreasonable risk to public health. The MTB does not agree; it believes that the amounts of asbestos fibers that are being released now, or would be released in the future, in the absence of these amendments, may pose an unreasonable risk to health.

Several commenters were concerned with the statement appearing in Notice 78-3 that "asbestos in its several commercial forms, poses serious health hazards to individuals subject to long term exposure to airborne asbestos concentrations." One commenter stated that "not all long-term exposures to airborne concentrations pose any health hazards \* \* \*." Another commenter suggested that the statement needed "more explicit definition" and that "reference should have been made to unanswered questions within the scientific community concerning mineral type, fiber size and smoking in the asbestos-cancer relationship." One commenter stated that there is a dose-response relationship between exposure to asbestos and disease causation, and that this conclusion is supported by an OSHA statement from its June 7, 1972 preamble

to its standard for exposure to asbestos dust (37 FR 11318). The OSHA statement is that: "No one has disputed that exposure to asbestos of high enough intensity and long enough duration is causally related to asbestosis and cancers" (emphasis added). Although the MTB had also quoted this statement in Notice 78-3, the words underlined for emphasis had been inadvertently omitted. Under these circumstances, some commenters apparently felt that the MTB was asserting the view that because, according to some commenters, asbestos is ubiquitous, long term exposure to ambient levels of asbestos fibers poses serious health hazards to all people, without regard to their occupational or para-occupational status. It was not the intention of the MTB to assert this view. That there are or can be "undisputed grave consequences from exposure to asbestos" (37 FR 11318) does not depend on the questioned conclusiveness of the evidence reported by OSHA (40 FR 47652) regarding the potential health hazards posed by low-level, brief or intermittent exposure to asbestos. The MTB relies on the foregoing FEDERAL REGISTER references for the general view that exposure to asbestos may pose an unreasonable risk to the public.

#### SECTION 173.1090(a) AND (b)

Several commenters stated that there are certain mineral ores, ore concentrates and milled mineral products which may have trace amounts of asbestos, or minor amounts of asbestos occurring as contaminants. They suggested that these materials presented no risk to property and little, if any, risk to public health and safety in transportation. Moreover, since the packaging requirements proposed in Notice 78-3 applied to only certain kinds of asbestos, namely milled or crude asbestos fibers produced by an asbestos mill, they further suggested that only "commercial asbestos fibers" be defined as a hazardous material.

The MTB recognizes that there are certain mineral ores, ore concentrates and milled mineral products, as well as other products, that contain certain amounts of asbestos, and that the commercial value of these minerals or products is not dependent on their asbestos content. The specific requirements in these amendments for the control of asbestos fibers in transportation do not apply to such materials or products, nor do they apply to asbestos as a waste product<sup>1</sup> or as a con-

<sup>1</sup>Under Docket HM-145A (43 FR 22626, May 25, 1978), new standards and procedures were proposed for the transportation of hazardous waste materials. That proposal would include waste asbestos if so identified by EPA under Section 3001 of the Solid Waste Disposal Act as amended by the Re-

taminating trace element. The amendments apply only to asbestos in its *several commercial forms* since it is those forms of asbestos that have been firmly established as posing serious health hazards to individuals. A new paragraph has been added which would define commercial asbestos as any material or product containing asbestos that has commercial value because of its asbestos content, and appropriate modifications have been made in the amendments to reflect this clarification. This new paragraph is identified in this amendment as paragraph (b) (paragraphs (b) and (c) in the notice are now paragraphs (c) and (d), respectively).

One commenter recommended that the scope of Notice 78-3 be amended to include, in addition to asbestos fibers, "all mineral and man-made (fibers) which have been identified by U.S. Government agencies as being carcinogenic and which may pose serious health risk." On December 9, 1976, the MTB published an Advance Notice of Proposed Rulemaking (41 FR 53824) in Docket No. HM-145 entitled "Environmental and Health Effects Materials." In that Notice, the MTB announced that it was considering whether new or additional transportation controls are necessary for certain classes of materials which are not generally subject to the existing Hazardous Materials Regulations. The question of whether all mineral and man-made fibers, which have been identified by U.S. Government agencies as being carcinogenic and which pose an unreasonable risk to public health, should be controlled in transportation will be considered in terms of the further development and resolution of the issues associated with Docket HM-145. Notice 78-3 however, pointed out that a large number of comments were received in Docket HM-145, and that a considerable amount of staff evaluation of these comments was still required before it would be possible to issue a notice or notices of proposed rulemaking for environmental and health effects materials, either on a comprehensive or on a selective basis.

#### SECTION 173.1090(c)(1)

Several commenters objected to the reference made to metal or fiber drums to illustrate the rigid packaging alternative for asbestos fibers. These commenters stated that the asbestos industry has not developed the technology to use this type of packaging alternative; that available technology is not transferable to the use of metal or fiber drums; and that, among other things, the use of this alternative could generate far greater airborne concentrations of asbestos than pack-

source Conservation and Recovery Act (Pub. L. 94-580).

aging and shipping practices currently in effect. As one commenter pointed out:

Commercial asbestos is fluffy. It is difficult to pack this material in a rigid container, and, because the fiber would gradually compact during shipment, it would be difficult to remove it for introduction into the manufacturing process. It would also be extremely cumbersome, if not impossible, to empty rigid containers effectively and rapidly into hoods designed for bags. Spillage would no doubt occur and workers would be unnecessarily exposed to fibers.

Another commenter recommended that a DOT Specification 56 portable tank be included in the amended rule as an acceptable package "for the transportation of asbestos-type products." This commenter stated that "with the use of equipment designed for the purpose, the D.O.T. 56 package can be readily filled or emptied without release of any product dust to the atmosphere or contact with the product by the operator." Another commenter insisted that only metal drums and not fiber drums were acceptable for the transportation of asbestos fibers. These commenters apparently lost sight of the fact that proposed § 173.1090(c)(1) does not "mandate," as one commenter suggested, or even encourage the use of rigid, airtight packaging such as metal or fiber drums or even portable tanks. It provides an alternative method of shipping commercial asbestos fibers. As was indicated in Notice 78-3, the MTB believes that its proposed non-specification packaging standards as applied to the transportation of commercial asbestos is an effective and efficient means of precluding potential problems associated with asbestos airborne emissions occurring during transportation; and that they are consistent with the standards of the EPA and the OSHA. Some of the commenters however were also apparently unaware that the transportation standards for the control of asbestos are designed to be comprehensive in nature such that, once the standards are promulgated, commercial asbestos cannot be packaged and transported in any matter not specified in the amendments. If under more advanced technology the use of rigid, airtight packaging would lessen the likelihood of airborne asbestos emissions associated with bag breakages under current industry wide non-uniform non-standardized packaging practices, then it is necessary that alternative transportation standards be available so as not to preclude the development and utilization of such technology. Although the public record on Notice 78-3 contains statements that the asbestos industry is seeking to improve the technology involved in the shipment and handling of commercial asbestos so as to minimize the possibility for the accidental release of such asbestos incident to

transportation, it is by no means certain that the pace of such technological improvements is rapid enough or that the best, economically feasible technology is being considered. However, the classification of asbestos as an ORM-C will, for the first time, require the submission of incident reports to the MTB by carriers of any unintentional release of asbestos during transportation, and enable the MTB to monitor the safety performance record associated not only with the transportation alternatives available under current technology as provided for by these amendments, but also with any improvements in that technology.

For these reasons, the substance of proposed § 173.1090(c)(1) is being retained but modified to reflect an even broader range of permissible rigid, airtight packaging alternatives. This section now is identified in this amendment as § 173.1090(d)(1) because of the addition of new paragraph (b).

#### SECTION 173.1090(c)(2)

Proposed paragraph (c)(2) of Notice 78-3 covered the transportation alternative of shipping commercial asbestos in bags when in closed freight containers, motor vehicles, or rail cars that were loaded by the consignor and unloaded by the consignee. Several commenters noted that, unless reliance was placed on using the rigid, airtight packaging alternative provided in the proposal, this alternative would preclude the shipment of asbestos fibers by open-bed trailers. One commenter noted that there is "no evidence to indicate that the use of open-bed trailers with side racks and tarpaulins has contributed to bag breakage and the release of airborne concentrations of asbestos fiber." Another commenter noted that the type of bag permitted by proposed paragraph (c)(2) was not specified, and that the shipper could package asbestos in burlap bags, or very thin paper or polyethylene bags which could permit asbestos fibers to be easily released into the air during transit. Another commenter was concerned with "small volume users of asbestos and customers who, from time to time, require sample shipments for trial production runs of a few hundred pounds," and who under § 173.1090(c)(2) would be forced to acquire the exclusive use of a railcar or highway trailer, or rely on the alternative provided by § 173.1090(c)(1).

Given the lack of detailed data on the amount of asbestos fibers released in transportation and the circum-

stances and causes for such release, the MTB is in general agreement with the thrust of these comments; accordingly, a new paragraph (d)(2) recognizes less restrictive handling of bagged asbestos than was proposed.

#### SECTIONS 174.840, 175.640, 176.906, 177.844

In these Sections, Notice 78-3 had proposed that, incident to its transportation, asbestos must be loaded, handled, and any asbestos contamination removed, in a manner that will *prevent* occupational exposure to airborne asbestos particles (emphasis added).

Some commenters objected to the word "prevent," believing that this word was intended to mean completely precluding the possibility of an accident occurring in which asbestos fibers would be released; or completely isolating people involved in the transportation, loading and unloading of asbestos from exposure to asbestos fibers from whatever source such fibers were generated. One commenter pointed out that with "the very large volume of asbestos shipped, occasional container damage may occur." Another commenter pointed out, although in a somewhat contradictory fashion, that since "asbestos is ubiquitous," therefore "airborne levels of asbestos fibers can be present in any place of employment, regardless of whether or not asbestos or products containing known quantities of asbestos are handled" (emphasis added). The Asbestos Information Association in its comments stated that "asbestos is ubiquitous, and there are *no workplaces where there is zero occupational exposure to asbestos*" (original emphasis). If Notice 78-3 was not as clear as it might have been on this point, it is only necessary to say that the basic purpose of these amendments is to minimize the exposure to airborne asbestos particles accidentally released during or incident to transportation; and appropriate changes to Parts 174, 175, 176, and 177 have been made to reflect this purpose.

#### ORM-C CLASSIFICATION

Notice 78-3 proposed that the classification for "asbestos" would be as an ORM-C, (Other Regulated Material, Group C). Several commenters were uncertain and concerned about the marking requirements associated with ORM-C classifications. One commenter noted that the designation ORM-C would "carry no meaningful warning to the person handling or opening the package." Another noted that the present regulations of the Occupational Safety and Health Admin-

istration (OSHA) on labeling requirements for asbestos convey much more information than an ORM-C marking requirement. These commenters were apparently not completely familiar with the marking requirements associated with ORM-C designated materials. The ORM-C marking not only warns when a package contains hazardous material, but it is also a certification by the person offering the package for transportation that the material is properly described, classed, packaged, marked, and labeled (when appropriate) and in proper condition for transportation according to applicable regulations of the Department. Neither function precludes or preempts OSHA labeling requirements or creates "contradictory regulatory requirements for labeling" as one commenter suggested. For these reasons, no changes have been made with respect to any marking requirements for asbestos packages.

#### ECONOMIC/INFLATIONARY IMPACT

In reviewing the potential economic and inflationary impacts associated with the final rule, the MTB has determined that such impacts will be minimal. Based on the comments received, and the consequent modification of Notice 78-3, the only economic costs associated with final amendment pertain to the reporting requirements to be submitted to MTB on the accidental releases of commercial asbestos fibers during or incident to transportation. The absolute annual magnitude of these costs will be, of course, a function of the total number of incident reports that are submitted on accidental releases of asbestos fibers; but in view of the undisputed grave consequences from exposure to asbestos fibers, these reporting requirements will not impose an unnecessary burden on the economy, on individuals, or on public and private organizations.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Parts 172, 173, 174, 175, 176, and 177 are amended as follows:

#### PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.101 the Hazardous Materials Table is amended by adding a new entry, immediately following "Arsine," to read as follows:

[4910-60-C]

§ 172.101 Hazardous materials table.

(1) */ W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Labels(s) required (if not excepted)	(5) Packaging		Maximum net quantity in one package		(7) Water shipments		
				(a) Exception	(b) Specific requirements	(a) Passenger carry- ing aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirement
*	(Add) Asbestos	ORM-C	None	173.1090 (c)	173.1090 (d)	No Limit	No Limit	1, 2	1, 2	Stow and handle to avoid air- borne particles.

### PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. Section 173.1090 is added preceding Subpart N to read as follows:

#### § 173.1090 Asbestos.

(a) Asbestos includes any of the following hydrated mineral silicates: chrysotile, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, actinolite asbestos, and every product containing any of these minerals.

(b) Commercial asbestos is any material or product containing asbestos that has commercial value because of its asbestos content.

(c) Asbestos which is immersed or fixed in a natural or artificial binder material (such as cement, plastic, asphalt, resins or mineral ore) and manufactured products containing asbestos or any materials or products whose commercial value is not dependent on their asbestos content, are not subject to the requirements of this subchapter.

(d) Commercial asbestos must be offered for transportation and transported in—

(1) Rigid, airtight packagings such as metal or fiber drums, portable tanks, or

(2) Bags and other non-rigid packagings that are dust and sift proof. When transported by other than a private carrier by highway, bags and other non-rigid packagings containing asbestos must be palletized and unitized by methods such as shrink-wrapping in plastic film or wrapping in fiberboard secured by strapping.

### PART 174—CARRIAGE BY RAIL

3. A Subpart M Heading is added immediately following § 174.812 to read as follows:

#### Subpart M—Detailed Requirements for Other Regulated Materials

4. Section 174.840 is added to read as follows:

#### § 174.840 Special loading and handling requirements for asbestos.

Asbestos must be loaded, handled, and unloaded, and any asbestos contamination of rail cars removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

### PART 175—CARRIAGE BY AIRCRAFT

5. Section 175.640 is added to read as follows:

#### § 175.640 Special requirements for other regulated materials.

Asbestos must be loaded, handled,

and unloaded, and any asbestos contamination of aircraft removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

### PART 176—CARRIAGE BY VESSEL

6. Section 176.906 is added to read as follows:

#### § 176.906 Stowage and handling of asbestos.

Asbestos must be stowed, handled, and unloaded, and any asbestos contamination of vessels removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

### PART 177—CARRIAGE BY PUBLIC HIGHWAY

7. Section 177.844 is added to read as follows:

#### § 177.844 Other regulated materials.

Asbestos must be loaded, handled, and unloaded, and any asbestos contamination of transport vehicles removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that these amendments do not require a regulatory analysis under the items of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on November 27, 1978.

L. D. SANTMAN,  
Director, Materials  
Transportation Bureau.

[FR Doc. 78-33771 Filed 12-1-78; 8:45 am]

[4910-59-M]

### CHAPTER V—NATIONAL HIGHWAY

#### TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-17; Notice 1]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

#### New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the Michelin Tire Corporation (Michelin) and by the Rubber Manufacturers Association (RMA), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, by adding four new tire size designations to Table I of Appendix A of the standard. The amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: January 3, 1979, if objections are not received prior to that date.

ADDRESS: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

John Diehl, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments.

On July 13, 1978, Michelin petitioned for the addition of two new tire size designations requested to be located in a new table, I-QQ within Appendix A of Standard No. 109. On July 18, 1978, and August 3, 1978, the RMA petitioned for the addition of two new tire size designations to existing tables within Table I of Appendix A of the standard. The bases for accepting or denying requests to add new tire size designations are set forth in introductory guidelines to the appendix (October 5, 1968, 33 FR 14964, as amended May 4, 1971, 36 FR 8298; July 22, 1971, 36 FR 13601; and August 13, 1974, 39 FR 28980). The four new tire size designations requested to be added to

Standard No. 109 meet these criteria. Accordingly, the Michelin and the RMA petitions are granted, and these new tire size designations are added to Table I of Appendix A of the standard pursuant to the abbreviated rulemaking procedure.

In accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) and Executive Order 12044, the NHTSA has reviewed the environmental and economic impacts of these amendments. There should be no negative environmental impacts. Further, since these are minor technical amendments of the standard which will permit the production of four new tire sizes, there should be no costs associated with their implementation. The agency has further concluded that this is not a significant regulation within the meaning of the Executive order.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations (Part 571.109 (Standard No. 109, *New Pneumatic Tires—Passenger Cars*)) is amended as specified below, subject to the 30 day comment provision discussed above.

§ 571.109 [Appendix amended]

In Tables I-HH, I-JJ, and I-QQ, the following new tire size designations and corresponding values are added:

[4910-59-C]

TABLE I - HH

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/75' SERIES ISO TYPE TIRES

Tire size <sup>1/</sup> designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section <sup>2/</sup> width (mm)
	120	140	160	180	200	220	240	260	280			
P195/75R15	470	510	545	580	610	640	670	695	720	5 1/2	854	196

<sup>1/</sup> The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

<sup>2/</sup> Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size <sup>1/</sup> designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section <sup>2/</sup> width (mm)
	120	140	160	180	200	220	240	260	280			
P185/70R13	345	375	400	425	450	470	490	510	530	5	761	184

<sup>1/</sup> The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

<sup>2/</sup> Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - QQ

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR '55' SERIES ALL MILLIMETRIC RADIAL PLY TIRES

Tire size designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)												Test rim width (mm)	Minimum size factor (mm)	Section width (mm)	
	16	18	20	22	24	26	28	30	32	34	36	38				40
220/55R390	915	975	1035	1090	1145	1200	1250	1295	1345	1390	1435	1480	1520	165	842	224
240/55R390	1055	1125	1195	1260	1320	1380	1440	1495	1550	1600	1655	1705	1755	180	894	245

<sup>1/</sup> The letters "H," "S," or "V," may be included in any specified tire size designation adjacent to the "R."

<sup>2/</sup> Actual section width and overall width shall not exceed the specified section width by more than 7%.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion. It is requested but not required that 10 copies of comments be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered; and will be available for examination in the docket at the above address both before and after that date.

The principal authors of this notice are John Diehl of the Office of Vehicle Safety Standards and Nancy Eager of the Office of Chief Counsel.

(Sec. 103, 119, 201 and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 27, 1978.

MICHAEL M. FINKELSTEIN,  
Associate Administrator  
for Rulemaking.

[FR Doc. 78-33676 Filed 12-1-78; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE  
COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND  
REGULATIONS

[S.O. 1289; Amdt. 2]

PART 1033—CAR SERVICE

**Burlington Northern Inc. Authorized  
To Operate Over Tracks of Union  
Pacific Railroad Co. at Sterling,  
Colo.**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1289).

SUMMARY: The Burlington Northern (BN) between Bridgeport, Nebraska, and Brush, Colorado, formerly a light density line, has become a major north-south route traversed by numerous daily coal trains. Between Sterling, Colorado, and Union, Colorado, trains over this line operate over tracks of the Union Pacific (UP). The connection between the BN and the UP at Sterling includes a 13 degree curve which imposes severe speed restrictions, reduced train size, excessive fuel consumption and excessive rail and tie wear on the BN. The UP and the BN have agreed to move the point of entry of BN trains to a point on the UP 2,892 feet east of the existing point, thereby enabling BN trains to avoid excessive curvature on the existing route. Service Order No. 1289 authorizes the BN to operate over the additional UP trackage pending depositing of its application seeking permanent authority. Service Order No. 1289 is printed in full in volume 42 of the FEDERAL REGISTER at page 63423. Amendment No. 2 extends Service Order No. 1289 for an additional period of 6 months.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: Decided November 27, 1978.

Upon further consideration of Service Order No. 1289 (42 FR 63423 and 43 FR 24694), and good cause appearing therefor:

It is ordered, That:

§ 1033.1289 Service Order 1289 Burlington Northern Inc. authorized to operate over tracks of Union Pacific Railroad Company at Sterling, Colorado is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33805 Filed 12-1-78; 8:45 am]

[7035-01-M]

[S.O. 1285; Amdt. 2]

PART 1033—CAR SERVICE

**Chicago and North Western Transportation Co. Authorized to Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1285).

SUMMARY: To facilitate highway reconstruction and to avoid the necessity of building a duplicate railroad bridge over an intersecting highway, the Chicago and North Western and the Chicago, Milwaukee, St. Paul and Pacific Railroad have agreed to joint use of the 1.35 miles of the latter company's line between Rothschild, Wisconsin and Schofield, Wisconsin. Service Order No. 1285 authorizes the Chicago and North Western to operate over these lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Service Order No. 1285 is printed in full in FEDERAL REGISTER,

Volume 42, at page 59278. Amendment No. 2 extends this order for an additional six month period.

**DATES:** Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1285 (42 FR 59278 and 43 FR 24535), and good cause appearing therefor:

*It is ordered, That:*

§ 1033.1285 Service Order 1285, Chicago, and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, is hereby amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as the agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33803 Filed 12-1-78; 8:45 am]

**[7035-01-M]**

[2nd Rev. S.O. 1315; Amdt. 1]

**PART 1033—CAR SERVICE**

**Demurrage and Free Time on Freight Cars**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order, Amendment No. 1 to Second Revised Service Order No. 1315.

**SUMMARY:** Second Revised Service Order No. 1315 establishes minimum periods for the detention of cars by shippers and receivers free of demurrage and increases demurrage charges for cars held beyond the free time. Amendment No. 1 extends this order an additional two months. Second Revised Service Order No. 1315 is published in full in volume 43 of the FEDERAL REGISTER at page 45866.

**DATES:** Effective 6:59 a.m., December 1, 1978. Expires 6:59 a.m., February 1, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1978.

Upon further consideration of Second Revised Service Order No. 1315 (43 FR 45866), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1315 Second Revised Service Order No. 1315, Demurrage and free time on freight cars is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 6:59 a.m., February 1, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 6:59 a.m., December 1, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33800 Filed 12-1-78; 8:45 am]

**[7035-01-M]**

[Rev. S.O. 1301; Amdt. 4]

**PART 1033—CAR SERVICE**

**Distribution of Grain Cars**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order (Amendment No. 4 to Revised Service Order No. 1301).

**SUMMARY:** There are serious shortages of 40-ft., narrow-door plain boxcars and of covered hoppers on the lines of the Burlington Northern and of the Chicago and North Western. Revised Service Order No. 1301 requires return of narrow-door, 40-ft., plain boxcars and of covered hoppers owned by these two railroads. Loading to stations on the lines of the car owners is permitted. Amendment No. 4 extends Revised Service Order No. 1301 for an additional five months. Revised Service Order No. 1301 is printed in full in the FEDERAL REGISTER Volume 43 at page 12326.

**DATES:** Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., April 30, 1979.

**FOR FURTHER INFORMATION CONTACT:**

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1978.

Upon further consideration of Revised Service Order No. 1301 (43 FR 12326, 14475, 19048 and 29008), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1301 Revised Service Order No. 1301, Distribution of grain cars, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33807 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Service Order No. 1288; Amdt. No. 2]

**PART 1033—CAR SERVICE**

**Chicago & North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. at Dekalb, Ill.**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1288).

SUMMARY: The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad (MILW) serving Dekalb, Illinois is unserviceable because of deteriorated track, leaving numerous shippers served by this railroad at Dekalb without essential railroad service. Service Order No. 1288 authorizes the Chicago and North Western Transportation Company (CNW) to operate over tracks of the MILW in Dekalb for the purpose of providing continued rail service to those shippers. Amendment No. 2 extends this order for an additional six-month period. Service Order No. 1288 is printed in full in volume 42 of the FEDERAL REGISTER at page 62925.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1288 (42 FR 62925 and 43 FR 24539), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1288 *Service Order No. 1288*, Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Dekalb, Illinois, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33808 Filed 12-1-78; 8:45 am]

[7035-01-M]

[14th Rev. S.O. 1234; Amdt. 1]

**PART 1033—CAR SERVICE**

**Distribution of Freight Cars**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Fourteenth Revised Service Order No. 1234.

SUMMARY: Because of a severe shortage of freight cars, railroads are unable to furnish cars of the size required to transport the minimum quantities of freight specified by the tariffs without excessive delay to the intended shipment. Fourteenth Revised Service Order No. 1234 authorizes the railroad to substitute sufficient smaller cars to transport all of the freight required to be shipped. Amendment No. 1 extends this order until April 15, 1979. Fourteenth Revised Service Order No. 1234 is published

in full in volume 43 of the FEDERAL REGISTER at page 37692.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., April 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Fourteenth Revised Service Order No. 1234 (43 FR 37692), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1234 *Fourteenth Revised Service Order No. 1234*, Distribution of freight cars, is amended by substituting the following paragraph (k) for paragraph (k) thereof:

(k) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33810 Filed 12-1-78; 8:45 am]

[7035-01-M]

[S.O. 1262; Amdt. 5]

**PART 1033—CAR SERVICE**

**North Stratford Railroad Corp. Authorized To Operate Over Certain Tracks Owned by the State of New Hampshire**

AGENCY: Interstate Commerce Commission.

**ACTION:** Emergency Order, Amendment No. 5 to Service Order No. 1262.

**SUMMARY:** Service Order No. 1262 authorizes the North Stratford Railroad Corporation to operate a line of railroad between North Stratford, New Hampshire, and Beecher Falls, Vermont, owned by the State of New Hampshire. Resumption of operation over this line restores rail service to shippers affected by its abandonment by the Maine Central, its former owner. Amendment No. 5 to Service Order No. 1262 extends for two months the emergency authority granted to the North Stratford Railroad for operation of this line. Service Order No. 1262 is published in full in volume 42 of the FEDERAL REGISTER at page 16780.

**DATES:** Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., January 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1262 (42 FR 16780, 43637, 57317; 43 FR 19047 and 50907), and good cause appearing therefor:

*It is ordered,*

Section 1033.1262 North Stratford Railroad Corporation authorized to operate over certain tracks owned by the State of New Hampshire.

Service Order No. 1262 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns,

Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33809 Filed 12-1-78; 8:45 am]

**[7035-01-M]**

[2d Rev. S.O. 1332; Amdt. 1]

**PART 1033—CAR SERVICE**

**Railroad Operating Regulations for Freight Car Movement**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order, Amendment No. 1 to Second Revised Service Order No. 1332.

**SUMMARY:** There are severe shortages of freight cars throughout the country. Second Revised Service Order No. 1332 requires all railroads to place, remove, forward, weigh, clean or repair cars within 60-hours in order to expedite the handling of freight cars and to increase their availability for reloading. Boxcars, hopper cars and covered hopper cars are covered by this order. Amendment No. 1 extends the order until January 31, 1979. The order is published in full in Volume 43 of the FEDERAL REGISTER at page 45863.

**DATES:** Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., January 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1978.

Upon further consideration of Second Revised Service Order No. 1332 (43 FR 45863), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1332 Second Revised Service Order No. 1332, Railroad operating regulations for freight car movement, is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American

Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford and Gresham. (Commissioner Clapp absent and not participating.)

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33801 Filed 12-1-78; 8:45 am]

**[7035-01-M]**

[Rev. S.O. 1313; Amdt. 2]

**PART 1033—CAR SERVICE**

**Railroads Authorized to Forward Portions of Certain Multiple-Car Shipments Transporting Less Than Minimum Quantities Specified by Tariffs**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order (Amendment No. 2 to Revised Service Order No. 1313).

**SUMMARY:** Many railroad tariffs require the tender of from two to twenty-four cars at one time. Because of severe car shortages the railroads are unable to furnish, at one time, all of the cars required to transport the shipment. Serious delays to cars occur while the shipper awaits receipt of the remaining cars required. Service Order No. 1313 requires railroads to accept and forward partial shipments without delay when the carrier is unable to furnish, at one time, all of the cars required to transport the minimum quantities specified by the tariffs. The shipper tendering such partial shipment is required to complete the multiple-car shipment before tendering additional shipments in the same kind of car. Amendment No. 2 extends this order for an additional five months. Revised Service Order No. 1313 is published in full in volume 43 of the FEDERAL REGISTER at page 21893.

**DATES:** Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., April 30, 1979.

**FOR FURTHER INFORMATION CONTACT:**

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate

Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1978.

Upon further consideration of Revised Service Order No. 1313 (43 FR 21893 and 29126), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1313 *Revised Service Order No. 1313*. Railroads authorized to forward portions of certain multiple-car shipments transporting less than minimum quantities specified by tariffs, is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

*Effective date*. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33806 Filed 12-1-78; 8:45]

**[7035-01-M]**

[S.O. 1312; Amdt. 3]

**PART 1033—CAR SERVICE**

**Railroads Authorized To Transport Unit-Grain-Trains of Less Than Number of Cars Required by Tariffs**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order (Amendment No. 3 to Service Order No. 1312).

**SUMMARY:** Because of a severe shortage of covered hopper cars, railroads are unable promptly to substitute other cars for cars which must be removed from unit-grain-trains because of mechanical defects resulting in delays to the remainder of the cars

used in the unit-grain-trains awaiting the reassembly of sufficient cars to fulfill tariff requirements. Service Order No. 1312 authorizes the carriers to transport unit-grain-trains with fewer cars than the number required by the applicable tariffs, subject to specified restrictions. Service Order No. 1312 is published in full in volume 43 of the FEDERAL REGISTER at page 13064. Amendment No. 3 extends this order for four months.

**DATES:** Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., March 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1312 (43 F.R. 13064, 24695 and 34149), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1312 *Service Order No. 1312*, Railroads authorized to transport unit-grain-trains of less than number of cars required by tariffs, is amended by substituting the following paragraph (i) for paragraph (i) thereof:

(i) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date*. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33807 Filed 12-1-78; 8:45 am]

**[7035-01-M]**

[Rev. S.O. 1280; Amdt. 2]

**PART 1033—CAR SERVICE**

**Substitution of Hopper Cars for Covered Hopper Cars or Boxcars**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Emergency Order, Amendment No. 2 to Revised Service Order No. 1280.

**SUMMARY:** Because of severe shortages of cars certain railroads are unable to furnish sufficient covered hopper cars and boxcars required for loading grain and grain products. Some railroads have available supplies of open hopper cars which can be substituted for boxcars or covered hopper cars for transporting these shipments. Revised Service Order No. 1280 authorizes railroads to substitute open hopper cars for covered hopper cars or boxcars for transporting shipments of grain or grain products. The consent of the shipper is required. Amendment No. 2 extends Revised Service Order No. 1280 for an additional six months. Revised Service Order No. 1280 is printed in full in the FEDERAL REGISTER, volume 42, at page 59386.

**DATES:** Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:**

Decided November 27, 1978.

Upon further consideration of Revised Service Order No. 1280 (42 FR 59386 and 43 FR 23723), and good cause appearing therefor:

*It is ordered, That:*

Section 1033.1280 *Revised Service Order No. 1280*, Substitution of hopper cars for covered hopper cars or boxcars, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

*Effective date*. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to

## RULES AND REGULATIONS

the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
*Secretary.*

[FR Doc. 78-33804 Filed 12-1-78; 8:45 am]

# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7590-01-M]

## NUCLEAR REGULATORY COMMISSION

[10 CFR Part 20]

### STANDARDS FOR PROTECTION AGAINST RADIATION

#### Burial of Small Quantities of Radionuclides

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is considering amending its regulations to require NRC licensees to obtain Commission approval prior to burial of small quantities of radionuclides. The proposed amendments would contribute to the protection of the public health by encouraging the shipment of small quantities of radioactive waste to licensed burial grounds and by improving the NRC's available data regarding amounts and locations of radioactive materials buried elsewhere. The amendments would not affect material already buried, or generally licensed and exempt material.

**DATES:** Comment period expires February 2, 1979.

**ADDRESSES:** Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

#### FOR FURTHER INFORMATION CONTACT:

Mr. John W. Hickey, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone: 310-443-5966).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Nuclear Regulatory Commission proposes to amend the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation," to revise the provisions for disposal of small quantities of licensed radioactive material by burial in soil.

Section 20.304, 10 CFR Part 20, currently provides that no licensee shall dispose of licensed material by burial in soil unless: (a) the total quantity of licensed and other radioactive materials buried at any one location and time does not exceed, at the time of burial, 1,000 times the amount specified in

Appendix C of Part 20; (b) burial is at a minimum depth of four feet; and (c) successive burials are separated by distances of at least six feet and not more than 12 burials are made in any year. Section 20.302 of 10 CFR Part 20 specifies the method for obtaining approval of proposed burials other than those allowed by § 20.304.

Section 20.304 has not been amended since its adoption in 1957, although there have been amendments to Appendix C of 10 CFR Part 20, which is referenced in § 20.304. The proposed amendment discussed below was developed as part of an ongoing Commission effort to review existing regulations on disposal of low-level radioactive waste.

Because burials under § 20.304 may be performed without specific NRC approval, the Commission does not have exact data on such burials. However, based on informal discussions with NRC inspectors and State officials, the Commission staff has estimated that relatively few licensees (less than 100 out of several thousand NRC and Agreement State licensees) have performed burials under § 20.304 over the last few years. Examples of licensees performing burials include materials licensees (such as some universities) who possess relatively small quantities of radionuclides.

Representatives of several State agencies have expressed concern to the Commission over the practice of allowing licensees to bury small quantities of radionuclides without notification or prior approval of the Commission or its Agreement States. These State representatives suggest that the risk of allowing such burials may be unacceptable.

The Commission agrees that the existing practice should be revised, and would like to obtain public comments before making a decision on whether to allow continued disposal of radioactive material under § 20.304 without prior regulatory review. The proposed amendments would limit burials to two circumstances: (1) where the licensee has obtained prior Commission approval as provided in 10 CFR § 20.302, or (2) where the licensee transfers such material to authorized recipients (e.g., licensed burial grounds). The effect of the proposed amendments may be to contribute to the protection of public health by encouraging the shipment of even small quantities of waste to licensed burial

grounds and by improving the NRC's available data regarding amounts and locations of radioactive materials buried elsewhere.

Examples of public comments which would be particularly helpful to the Commission are: information on the numbers of burials currently being conducted pursuant to § 20.304, the quantities and types of radionuclides buried, estimates of the potential risk to the public health from such burials, and estimates of the costs to licensees if § 20.304 were deleted.

If, after consideration of the factors relating to this matter including comments or suggestions submitted in response to this notice of proposed rule making, the Commission decides to promulgate the rule in effective form, a period of three (3) months would be provided for licensees currently conducting disposal by burial in soil pursuant to § 20.304 to make alternative disposal arrangements or to comply with the provisions of § 20.302.

These amendments would not require any action concerning material already buried under the present provisions of § 20.304.

It is not the intent of the proposed amendments to change procedures regarding the disposal of materials or products transferred to persons exempt or generally licensed.

The proposed amendments constitute a procedural change which is not likely to have a substantial impact on the method or number of burials of radionuclides. Information available to the Commission indicates that only a few licensees would be affected by the amendments. However, it is possible that as a result of Commission review of individual burial proposals or as a result of increased shipments to licensed burial grounds, the potential environmental impact will be reduced. Therefore, the Commission has determined that an environmental impact statement pursuant to the National Environmental Policy Act of 1969 need not be prepared in connection with the promulgation of these amendments, because their adoption will not significantly affect the quality of the human environment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contem-

plated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed rule should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by February 2, 1979.

§ 20.304 [Deleted]

1. Section 20.304, *Disposal by burial in soil*, is deleted.

2. Section 20.301(c) is revised to read as follows:

§ 20.301 General requirement.

(c) As provided in § 20.303, applicable to the disposal of licensed material by release into sanitary sewerage systems, or in § 20.106 (Radioactivity in effluents to unrestricted areas).

3. Section 20.401(b) and subparagraph (3) of paragraph (c) are amended to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

(b) Each licensee shall maintain records in the same units used in this part, showing the results of surveys required by § 20.201(b), monitoring required by §§ 20.205(b) and 20.205(c), and disposals made under §§ 20.302, 20.303, and deleted 20.304.

(c)

(3) Records of disposal of licensed material made pursuant to §§ 20.302, 20.303, and deleted 20.304 shall be maintained until the Commission authorizes their disposition.

4. A footnote is added to section 20.401 to read as follows:

'Section 20.304 provided for burial of small quantities of licensed materials in soil. Notice of its deletion appears in (Federal Register page and date to be inserted).

5. The note following Appendix C of 10 CFR Part 20 is amended to read as follows:

APPENDIX C

NOTE.—For purposes of § 20.203, where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" (i.e., "unity").

(Section 161, b. and i., Pub. L. 83-703, 68 Stat. 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1243, (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C. this 28th day of November 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc. 78-33746 Filed 12-1-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-GL-16]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Springfield, Minnesota to accommodate a new VOR/DME instrument approach procedure into the Springfield Municipal Airport established pursuant to a request from the Springfield Municipal Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATES: Comments must be received on or before January 2, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-16, 2300 East Devon Avenue, Des Plaines, Illinois 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

Clair M. Billington, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone 312-694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the

FAA to lower the floor of the controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 78-GL-16, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before January 2, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Springfield, Minnesota. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (43 FR 440), the following transition area is added:

SPRINGFIELD, MINN.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Springfield Municipal Airport (Lati-

tude 44°13'53" N, Longitude 94°54'54" W) and within 2 statute miles each side of the 158' radial of the Redwood Falls VORTAC, extending from the 5 mile radius to 6 miles northwest of the airport, excluding that portion within the Windom Municipal Airport transition area.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); section 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Ill., on November 20, 1978.

WM. S. DALTON,  
Acting Director  
Great Lakes Region.

[FR Doc. 78-33767 Filed 12-1-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-WE-13]

#### VOR AIRWAYS

Proposed Alteration and Rescission

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of V-21 and rescind segments of V-25E, V-201 and V-208 airways south and southeast of Los Angeles, Calif. This action would eliminate unused route segments and realign a segment of V-21 to a route that is presently used as a vector route. Chart clutter would be reduced and traffic flow would be improved in this area.

DATES: Comments must be received on or before January 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 78-WE-13, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence

Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

#### SUPPLEMENTARY INFORMATION:

##### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air-Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All Communications received on or before January 3, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

##### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

##### THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would make the following changes:

1. Realign a segment of V-21 from Seal Beach, Calif., to Santa Catalina, Calif., rather than to the CARP INT.

2. Rescind segments of V-25E from Seal Beach to the ALBACORE INT and from Seal Beach to the HERMO INT.

3. Rescind a segment of V-201 from Los Angeles, Calif., to the CARP INT.

4. Rescind a segment of V-208 from Los Angeles to Santa Catalina.

The route from Seal Beach to Santa Catalina is presently used as a vector/direct route. Designation of this route as an airway (V-21) would reduce flight planning and communication time. The airway segments that are proposed to be rescinded are not presently used sufficiently to warrant their retention as airways or else they are dually designated with another airway which would remain designated.

##### ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of De-

fense in accordance with the provisions of Executive Order 10854.

#### THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307, 3545) as follows:

Under V-21, all before "Ontario, Calif.," is deleted and "From Santa Catalina, Calif., via Seal Beach, Calif.," is substituted therefor.

Under V-25, all before "INT Los Angeles 261" is deleted and "From Mission Bay, Calif., via Los Angeles, Calif.," is substituted therefor.

Under V-201, all before "Palmdale, Calif.," is deleted and "From Los Angeles, Calif., to" is substituted therefor.

Under V-208, all before "Oceanside, Calif.," is deleted and "From Santa Catalina, Calif., via" is substituted therefor.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 22, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc. 78-33667 Filed 12-1-78; 8:45 am]

#### [4910-13-M]

[14 CFR Part 71]

[Docket No. 78-SO-68]

#### DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area,  
Cairo, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate Cairo, Georgia, Transition Area and will lower the base of controlled airspace in the vicinity of the Cairo-Grady County Airport from 1200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A public use instrument approach procedure has been developed for the Cairo-Grady County Airport, and the additional controlled airspace is required to protect aircraft conduct-

ing Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before: December 31, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320.

#### FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

#### SUPPLEMENTARY INFORMATION:

##### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320. All communications received on or before December 31, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

##### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

##### THE PROPOSAL

The proposed designation is required to provide controlled airspace protection for IFR operations at Cairo-Grady County Airport. The NDB Runway 12 standard instrument approach procedure utilizing the Caidy (nonfederal) nondirectional radio

beacon is proposed in conjunction with the designation of this transition area.

#### THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Administration Regulations (14 CFR Part 71) by adding the following:

##### CAIRO, GA.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Cairo-Grady County Airport (latitude 30°53'19" N. longitude 84°09'22" W.); within 3 miles each side of the 137° bearing from the Caidy RBN (latitude 30°53'17" N., longitude 84°09'34" W.), extending from the 6.5 mile radius area to 8.5 miles northwest of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on November 22, 1978.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc. 78-33664 Filed 12-1-78; 8:45 am]

#### [4910-13-M]

[14 CFR Part 73]

[Airspace Docket No. 78-EA-35]

#### RESTRICTED AREA

##### Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Fort Dix, N.J., Restricted Area, R-5001A and R-5001B, by expanding the area approximately one square mile to the southeast. This action would permit the U.S. Army to use three new artillery firing ranges recently established.

DATES: Comments must be received on or before January 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-35, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket

(AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

**SUPPLEMENTARY INFORMATION:**

**COMMENTS INVITED**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before January 3, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**AVAILABILITY OF NPRM**

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

**THE PROPOSAL**

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter Restricted Area R-5001A and R-5001B by expanding the area to the southeast approximately one square mile. The additional airspace would provide the airspace required by the U.S. Army to establish three new artillery ranges. The current designated altitudes would remain the same. The using agency

(Commanding General, Fort Dix, N.J.) will serve as lead agency for purposes of compliance with the National Environmental Policy Act. Comments on any land use problems can be addressed to LTC Barry T. Balint, Regional Representative, Department of the Army, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. Subpart B of Part 73 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 692).

**THE PROPOSED AMENDMENT**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.50 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 692) as follows:

**UNDER R-5001 FORT DIX, N.J.**

Subarea A Boundaries. "to Lat 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be deleted and "to Lat. 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°57'30" N., Long. 74°25'17" W.; to Lat. 39°57'23" N., Long. 74°25'50" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be substituted therefor.

Subarea B Boundaries. "to Lat. 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be deleted and "to Lat. 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°57'30" N., Long. 74°25'17" W.; to Lat. 39°57'23" N., Long. 74°25'50" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 22, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc. 78-33666 Filed 12-1-78; 8:45 am]

[4410-01-M]

**DEPARTMENT OF JUSTICE**

**Parole Commission**

[28 CFR Part 2]

**PAROLE, RELEASE, SUPERVISION, AND RE-COMMITMENT OF PRISONERS; YOUTH OFFENDERS AND JUVENILE DELINQUENTS**

AGENCY: United States Parole Commission.

ACTION: Proposed rule.

**SUMMARY:** The proposed rule would expand the coverage of the decision-making guidelines applicable to prisoners sentenced under the Youth Corrections Act, to include any prisoner who was under the age of 22 at the time of conviction. This proposed procedure is designed to ensure equitable treatment among all prisoners in the same age group, by requiring the Commission to justify differences in parole decisions on the basis of specific facts in each case, rather than sentence type alone. In addition, the procedure would permit judges the option of imposing a short adult sentence in the case of a youthful prisoner as a measure of leniency, without entailing the collateral effect of requiring the offender to be considered for parole under adult guidelines.

**DATE:** Comments must be received by February 1, 1979.

**ADDRESS:** Send comments to the United States Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537; Attention: Office of the General Counsel.

**FOR FURTHER INFORMATION CONTACT:**

Michael A. Stover, Office of the General Counsel, telephone 202-724-3143.

**SUPPLEMENTARY INFORMATION:**

At present, sentencing judges must make a "no benefit" finding under 18 U.S.C. § 5010(d) in order to use adult sentencing options in the case of an offender under the age of 22 at the time of conviction. The Commission believes that such a finding does not, by itself, require that each youth offender sentenced as an adult must be considered for parole *as if he were an adult*, or that he should necessarily serve longer in confinement than offenders who receive Youth Act sentences. However, if there are aggravating factors in the case that prompted the sentencing judge to impose an adult sentence, these factors will still enter into the Parole Commission's decision. In that event, the parole decision is likely to be above the guidelines on the basis of the same aggravating factors. Therefore, this proposal would not be likely to produce any significant shift toward leniency with regard to the parole of serious offenders.

On the other hand, the Commission is aware that a number of judges are dissatisfied with the six year maximum requirement under the Youth Corrections Act, and may wish to impose a short adult sentence rather than a Youth Act sentence, but are deterred from imposing the shorter sentence because they do not wish the defendant to be considered under the Adult parole guidelines. This change

would permit the imposition of a short adult sentence, without depriving the prisoner of parole consideration on the same basis as other youthful offenders.

For these reasons, the Commission proposes to add to its Youth/NARA guidelines at 28 CFR § 2.20 a footnote explaining the term "Youth" as meaning (1) any offender sentenced under the Youth Corrections Act, and (2) any offender who was under the age of 22 years at the time of conviction.

Dated: November 29, 1978.

CECIL C. McCALL,  
Chairman,  
U.S. Parole Commission.

[FR Doc. 78-33783 Filed 12-1-78; 8:45 am]

### [6735-01-M]

#### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2700]

##### PROCEDURAL RULES

###### Extension of Comment Period on Proposed Rules of Procedure

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Extension of comment period.

SUMMARY: On October 21, 1978, the Federal Mine Safety and Health Review Commission proposed the amendment of its rules of procedure. The Commission invited the comments of interested persons and permitted the filing of written views and data until November 30, 1978, 43 FR 50712. On November 15, 1978, the Commission announced that a public hearing on its proposal will be held on December 5, 1978, 43 FR 53045.

To accord interested persons a fuller opportunity to comment upon the Commission's proposed rules of procedure, the Commission extends the time for the submission of written comments and data and requests to appear to make oral presentations on the proposed rules to 10:00 a.m., December 5, 1978.

DATE: Written comments, data, and requests to appear to make oral presentations are due by 10:00 a.m., December 5, 1978.

##### FOR FURTHER INFORMATION CONTACT:

Donald Terry, Executive Director  
(202) 653-5644.

Signed at Washington, D.C., this 30th day of November 1978.

JEROME R. WALDIE,  
Chairman.

[FR Doc. 78-33928 Filed 12-1-78; 8:45 am]

### [4910-62-M]

#### DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[49 CFR Part 10]

[OST Docket No. 39; Notice 78-16]

#### MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

##### Proposed Revision

AGENCY: Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: DOT proposes a revision of its regulations implementing the Privacy Act, principally to change the special procedures regarding medical records and to add two exemptions. Public comment is invited.

DATE: Comment closing date: January 18, 1979.

ADDRESSES: Send written comments to Docket Clerk, OST Docket No. 39, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. Comments will be available for public inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street, SW, Washington, D.C. from 9:00 AM to 5:30 PM eastern time, Monday through Friday, except Federal holidays.

##### FOR FURTHER INFORMATION CONTACT:

John J. Windsor, Privacy Act Coordinator, M-30, Department of Transportation, Washington, D.C. 20590 (202) 426-1887.

SUPPLEMENTARY INFORMATION: This proposed revision would make the following substantive changes in DOT's Privacy Act regulations:

1. All pronouns would be gender neutral.

2. Research and Special Programs Administration (RSPA) would be identified as an operating administration in lieu of Materials Transportation Bureau, which is now part of RSPA.

3. The special procedures regarding medical records would be changed to provide greater flexibility to DOT in deciding whether to release this information directly to the subject. The existing procedures deny DOT the opportunity to disclose the information directly to the subject if competent medical authority believes it may be harmful to the subject to do so. It may be useful to have the flexibility to disclose directly to the subject in extraordinary situations, as where, for exam-

ple, the subject's religious beliefs preclude referral to a physician.

4. Two exemptions are proposed in addition to those already in effect. One is for Federal Aviation Administration (FAA) and one for National Highway Traffic Safety Administration (NHTSA). The FAA proposal would exempt all criminal investigatory information maintained by Headquarters and field security offices from a number of Privacy Act requirements, principally to tell persons that FAA has such information on them and to grant them access to it and the opportunity to seek its amendment. Similar exemptions already exist for the corresponding offices within the Office of the Secretary (OST) and the Coast Guard.

The NHTSA proposal would exempt the files which it maintains on people's suitability for employment with NHTSA from a number of Privacy Act requirements, again principally to tell persons that NHTSA has such information on them and to grant them access and the opportunity to seek amendment. This would protect the identities of confidential sources and also preserve these records as impartial measurement standards for appointment and promotion in the Federal service. Exemptions already exist for similar files in OST, Coast Guard, FAA, and Federal Railroad Administration.

As with all exemptions invoked by DOT, persons who request access to information covered by these exemptions would be granted access unless significant harm to a valid public interest would likely result from such access.

5. Finally, one exemption would be deleted. Coast Guard's Marine Pollution Case Files (DOT/CG 583) would no longer be listed among the systems of records specifically exempt pursuant to 5 USC 552a(k), since it has been determined that it is not a system of records as that term is used in the Privacy Act and is therefore not subject to the Privacy Act. It has previously been removed from DOT's listings of systems of records.

Public comment is invited on this proposed revision. Comments should be sent to the Docket Clerk at the address, and by the comment closing date, specified.

In consideration of the foregoing, the Department of Transportation proposes to revise Part 10 to Title 49 of the Code of Federal Regulations to read as appears below.

Issued in Washington, D.C., on November 20, 1978.

BROCK ADAMS,  
*Secretary of Transportation.*

**PART 10—MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS**

**Subpart A—Applicability and Policy**

- Sec.
- 10.1 Applicability.
- 10.3 Policy.
- 10.5 Definitions.

**Subpart B—General**

- 10.11 Administration of part.
- 10.13 Privacy Act Officer.
- 10.15 Protection of records.

**Subpart C—Maintenance of Records.**

- 10.21 General.
- 10.23 Accounting of disclosures.
- 10.25 Mailing lists.
- 10.27 Government contractors.
- 10.29 Social Security numbers.

**Subpart D—Availability of Records.**

- 10.31 Requests for records.
- 10.33 Acknowledgement and access.
- 10.35 Conditions of disclosure.
- 10.37 Identification of individual making request.
- 10.39 Location of records.

**Subpart E—Correction of Records**

- 10.41 Requests for correction of records.
- 10.43 Time limits.
- 10.45 Statement of disagreement.

**Subpart F—Procedures for Reconsidering Decisions Not to Disclose or Amend Records**

- 10.51 General.

**Subpart G—Exemptions.**

- 10.61 General exemptions.
- 10.63 Specific exemptions.

**Subpart H—Fees**

- 10.71 General.
- 10.73 Payment of fees.
- 10.75 Fee schedule.
- 10.77 Services performed without charge.

**Subpart I—Criminal Penalties**

- 10.81 Improper disclosure.
- 10.83 Improper maintenance of records.
- 10.85 Wrongfully obtaining records.
- Appendix A—Exemptions.
- Appendix B—Office of the Secretary.
- Appendix C—United States Coast Guard.
- Appendix D—Federal Aviation Administration.
- Appendix E—Federal Highway Administration.
- Appendix F—Federal Railroad Administration.
- Appendix G—National Highway Traffic Safety Administration.
- Appendix H—Urban Mass Transportation Administration.
- Appendix I—Saint Lawrence Seaway Development Corporation.
- Appendix J—Research and Special Programs Administration.

AUTHORITY: Pub. L. 93-579, sec. 9. Department of Transportation Act, Pub. L. 89-670; 49 U.S.C. 1657.

**Subpart A—Applicability and Policy**

**10.1 Applicability.**

(a) This part implements section 552a of Title 5, United States Code, as well as other provisions of the Privacy Act of 1974, and prescribes rules governing the availability of those records of the Department of Transportation which relate to citizens of the United States and aliens lawfully admitted for permanent residence.

(b) Appendices B through J to this part:

(1) Describe the places and times at which records are available for inspection and copying;

(2) Indicate the systems of records located at each facility;

(3) Identify the officials having authority to deny requests for disclosure of records under this part;

(4) Describe the procedures to be followed in requesting correction of a record in accordance with § 10.41; and

(5) List additional personal identification requirements in accordance with § 10.37.

(c) The Assistant Secretary for Administration may amend Appendix B to this part to reflect any changes in the items covered by that appendix, relating to the Office of the Secretary of Transportation. The Administrator concerned may amend the appendix applicable to that administration to reflect any changes in the terms covered by that appendix.

(d) Appendix A to this part identifies systems of records which are exempt from some of the requirements of this part, in accordance with Subpart G and 5 U.S.C. 552a(j) and (k). Appendix A may be amended by the General Counsel upon the request of the Assistant Secretary for Administration in the case of a system of records maintained by the Office of the Secretary or the Administrator concerned in the case of a system of Records maintained by an operating administration.

**§ 10.3 Policy.**

It is the policy of the Department of Transportation to comply with the letter and the spirit of the Privacy Act (the Act). Therefore, personal data contained in each system of records is afforded adequate protection against unauthorized access, is as accurate as is feasible, and is limited to that necessary to accomplish the stated use or uses of the system. Further, no system of records is exempted from the requirements of the Act unless it is determined that to do so is in the best interest of the government with due concern for individual rights.

**§ 10.5 Definitions.**

Unless the context requires otherwise, the following definitions apply in this part:

“Administrator” means the head of an operating administration and includes the Commandant of the Coast Guard.

“Department” means the Department of Transportation, including the Office of the Secretary and the following operating administrations:

(a) The United States Coast Guard.

(b) The Federal Aviation Administration.

(c) The Federal Highway Administration.

(d) The Federal Railroad Administration.

(e) The National Highway Traffic Safety Administration.

(f) The Urban Mass Transportation Administration.

(g) The St. Lawrence Seaway Development Corporation.

(h) The Research and Special Programs Administration.

“Includes” means “includes but is not limited to;”

“May” is used in a permissive sense to state authority or permission to do the act prescribed;

“Secretary” means the Secretary of Transportation or any person to whom has been delegated authority in the matter concerned;

“Individual” means a citizen of the United States or an alien lawfully admitted;

“Maintain” includes maintain, collect, use, or disseminate;

“Record” means any item, collection, or grouping of information about an individual that is maintained by the Department including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the name of, or an identifying number, symbol, or other identifying particular assigned to, the individual, such as a finger or voice print or a photograph;

“System of records” means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

“Statistical record” means a group of any records maintained for statistical research or reporting purposes only and not in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13, United States Code; and

“Routine use” means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

## Subpart B—General

## § 10.11 Administration of part.

Except as provided in Subpart F of this part, authority to administer this part in connection with the records of the Office of the Secretary is delegated to the Assistant Secretary for Administration. Authority to administer this part in connection with records in each operating administration is delegated to the Administrator concerned. An Administrator may redelegate to officers of that administration the authority to administer this part in connection with defined systems of records. An Administrator, however, may redelegate his or her duties under Subparts F and G of this part only to his or her deputy and to not more than one other officer who reports directly to the Administrator and who is located at the headquarters of that administration or at the same location as the majority of that administration's systems of records.

## § 10.13 Privacy Act Officer.

(a) To assist in the oversight of the implementation and continuing administration and in evaluating the effectiveness of compliance with the Act, the Assistant Secretary for Administration appoints a principal coordinating official with the title Privacy Act Officer, and one Privacy Act Coordinator from his staff. The Director of Automated Systems Policy is designated the Privacy Act Officer and has designated an appropriate staff member as his Privacy Act Coordinator.

(b) Inquiries concerning Privacy Act matters, or requests for assistance, may be addressed to the Privacy Act Officer (M-30), Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

(c) Administrators may designate Privacy Act Officers or Coordinators to act as central coordinators within their administrations to assist them in administering the Act.

## § 10.15 Protection of records.

(a) No person may, without permission, remove any record made available for inspection or copying under this part from the place where it is made available. In addition, no person may steal, alter, mutilate, obliterate, or destroy, in whole or in part, such a record.

(b) Section 641 of Title 18 of the United States Code provides, in pertinent part, as follows:

Whoever \* \* \* steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record \* \* \* or thing of value of the United States or of any department or agency thereof \* \* \* shall be fined not more than \$10,000 or imprisoned not more than

10 years or both; but if the value of such property does not exceed the sum of \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year or both \* \* \*

(c) Section 2071 of Title 18 of the United States Code provides, in pertinent part, as follows:

Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited \* \* \* in any public office, or with any \* \* \* public officer of the United States, shall be fined not more than \$2,000 or imprisoned not more than 3 years, or both.

## Subpart C—Maintenance of Records

## § 10.21 General.

Except to the extent that a system of records is exempt in accordance with Subpart G of this part, the Department, with respect to each system of records:

(a) Maintains in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the Department required to be accomplished by statute or by executive order of the President;

(b) Collects information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, or privileges under Federal programs;

(c) Informs each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual of:

(1) The authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses, as published pursuant to paragraph (d) (4) of this section, which may be made of the information; and

(4) The effects, if any, on the individual of not providing all or any part of the requested information;

(d) Publishes in the FEDERAL REGISTER at least annually a notice of the existence and character of the system of records, including:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the

categories of users and the purpose of such use;

(5) The policies and practices regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the official responsible for the system of records;

(7) The procedures whereby an individual can be notified upon request if the system of records contains a record pertaining to that individual;

(8) The procedures whereby an individual can be notified upon request how to gain access to any record pertaining to that individual contained in the system of records, and how to contest its content; and

(9) The categories of sources of records in the system;

(e) Maintains all records which are used in making any determination about any individual with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determinations;

(f) Prior to dissemination any record about an individual to any person other than an agency, unless the dissemination is made pursuant to § 10.35(a)(2), makes reasonable efforts to assure that such records are accurate, complete, timely, and relevant for the Department's purposes;

(g) Maintains no record describing how any individual exercises rights guaranteed by the First Amendment unless—

(1) Expressly authorized by the General Counsel; and

(2) Expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(h) Makes reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

## § 10.23 Accounting of disclosures.

Each operation administration and the Office of the Secretary, with respect to each system of records under its control:

(a) Except for disclosures made under § 10.35(a) (1) or (2), keep an accurate accounting of:

(1) The date, nature, and purpose of each disclosure of a record to any person or to another agency made under § 10.33; and

(2) The name and address of the person or agency to whom the disclosure is made;

(b) Retains the accounting made under paragraph (a) of this section for at least five years or the life of the record, whichever is longer, after the

disclosure for which the accounting is made;

(c) Except for disclosures made under § 10.33(a)(7), makes the accounting made under paragraph (a)(1) of this section available to the individual named in the record at his request; and

(d) Informs any person or other agency about any correction or notation of dispute made by the agency in accordance with § 10.45 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

#### § 10.25 Mailing lists.

An individual's name and address is not sold or rented unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

#### § 10.27 Government contractors.

When the Department provides by a contract for the operation by or on behalf of the Department of a system of records to accomplish a function of the Department, the requirements of this part are applied to such system. For purposes of Subpart I, CRIMINAL PENALTIES, any such contractor and any employee of the contractor are considered, in accordance with section 3(m) of the Privacy Act, to be employees of the Department.

#### § 10.29 Social Security numbers.

(a) No individual is denied any right, benefit, or privilege provided by law because of such individual's refusal to disclose his Social Security account number.

(b) The provisions of paragraph (a) of this section do not apply to:

(1) Any disclosure which is required by Federal statute; or

(2) The disclosure of a Social Security number when such disclosure was required under statute or regulation adopted prior to January 1, 1975, to verify the identity of any individual.

(c) When an individual is requested to disclose his or her Social Security account number, that individual is informed whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, what uses are made of it, and what detriments, including delay in the location of records, are incurred if the number is not provided.

#### Subpart D—Availability of Records

#### § 10.31 Requests for records.

(a) Ordinarily, each person desiring to determine whether a record pertaining to him or her is contained in a system of records covered by this part or desiring access to a record covered

by this part, or to obtain a copy of such a record, shall make a request in writing as provided in the pertinent appendix to this part. In exceptional cases oral requests are accepted.

(b) Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located. If assistance is required to determine the system of records identification number assigned in the systems notices, such assistance may be obtained from the appropriate Privacy Act Officer or his Assistant. Refer to § 10.13 for procedures for requesting assistance.

#### § 10.33 Acknowledgement and access.

(a) Requests by an individual to determine whether he or she is the subject of a record in a system of records, or requesting access to a record in a system of records, should be acknowledged within 10 working days, where the request is by mail. For requests in person, an immediate response is given, either granting access or informing such individual when notification or access may be expected.

(b) If the response granting access or copies of the record is made within 10 working days, separate acknowledgement is not required.

(c) Although requests for access to a record are normally in writing, e.g., by filing a written form or letter, it is the option of the individual to mail or present the request form in person.

#### § 10.35 Conditions of disclosure.

(a) No record which is contained within a system of records within the Department is disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(1) To those officers and employees of the Department who have a need for the record in the performance of their duties;

(2) Required under Part 7 of this title which implements the Freedom of Information Act;

(3) For a routine use as defined in § 10.5 and described pursuant to § 10.21 (d)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, United States Code;

(5) To a recipient who has provided the Department with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of the Congress, or to the extent of matters within its jurisdiction, any committee or subcommittee thereof, any joint committee of the Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(b) Any individual requesting access to his or her record or to any information pertaining to that individual which is contained within a system of records within the Department has access to that record or information unless the system of records within which the record or information is contained is exempted from disclosure in accordance with Subpart G. *Provided, however,* That nothing in this part is deemed to require that an individual be given access to any information compiled in reasonable anticipation of a civil action or proceeding. No exemption contained in Subpart G of Part 7 of the Regulations of the Office of the Secretary is relied upon to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this part. Any individual who is given access to a record or information pertaining to him is permitted to have a person of his or her own choosing accompany him and to have a copy made of all or any portion of the record or information in a form comprehensible to the individual. When deemed appropriate, the individual may be required to furnish a written statement authorizing discussion of his record in the accompanying person's presence.

(c) Medical records—Where requests are for access to medical records, including psychological records and information, such records are released directly to the individual unless a medical practitioner has disapproved the release on the basis that it will do harm to the individual requesting access. Final approval for release of medical records to an individual rests with the General Counsel. Normally, medical records whose direct release to an individual may do him or her harm, are released to the individual through a medical practitioner designated by the individual.

(d) Any person requesting access to records or to any information pertaining to other individuals is not granted such access unless that person can show that he or she has obtained permission for such access from the individual to whom the record pertains, unless the request comes within one of the exceptions of § 10.35(a).

#### § 10.37 Identification of individual making request.

No record or information contained in a system of records is disclosed to an individual nor is any correction of a record in accordance with Subpart E be made at the request of an individual unless that individual demonstrates that he or she is who he or she claims to be. Normally, identity can be proven for individuals who appear in person by the presentation of an identifying document issued by a recognized organization (e.g., a driver's license or a credit card) and which contains a means of verification such as a photograph or a signature. For requests by mail, the unique identifier used in the system should be included if known. Responses to mail requests are normally sent only to the name and address listed in the system of records. In the case of particularly sensitive records, additional identification requirements may be imposed. In such cases, these additional requirements are listed in the public notice for the system and in the appropriate appendix to this part.

#### § 10.39 Location of records.

Each record made available under this subpart is available for inspection and copying during regular working hours at the place where it is located or, upon reasonable notice, at the document inspection facilities of the Office of the Secretary or each administration as set forth in the appendix applicable to that office or administration. Original records may be copied but may not be released from custody. Upon payment of the appropriate fee, copies are mailed to the requester.

### Subpart E—Correction of Records

#### § 10.41 Requests for correction of records.

Any person who desires to have a record pertaining to that person corrected shall submit a written request detailing the correction and the reasons the record should be so corrected. Requests for correction of records shall be submitted in accordance with the procedures of the organization set forth in Appendices B through J to this part for the appropriate operating element of the Department.

#### § 10.43 Time limits.

Within ten days (excluding Saturday, Sunday, and legal holidays) of the receipt in accordance with § 10.41 of a request by an individual to amend a record pertaining to him, the receipt of the request is acknowledged in writing. If a determination is made to correct the record as requested, the correction is promptly made. If a determination is made not to correct a record the individual is informed promptly of the right to appeal in accordance with Subpart F of this part. If an appeal of a refusal to correct a record is in accordance with Subpart F of this part, a determination whether to correct the record is made within thirty days (excluding Saturday, Sunday and legal holidays) of the receipt of the appeal unless, for good cause shown, the Administrator concerned, or in the case of the Office of the Secretary, the General Counsel, extends such period. Where an extension is taken, the party taking the appeal is promptly notified of such fact.

#### § 10.45 Statement of disagreement.

If a determination is made not to amend a record, the requester is informed of the right to file a concise statement setting forth the reasons for disagreement with the refusal to amend. In any disclosure containing information about which an individual has filed such a statement of disagreement, the portions of the record which are disputed are noted clearly and copies of the statement of disagreement provided. If the Administrator concerned or his or her delegee, or in the case of the Office of the Secretary, the General Counsel or his or her delegee, deems it appropriate, copies of a concise statement of the reasons for not making the amendments requested may be provided along with the statement of disagreement.

### Subpart F—Procedures for Reconsidering Decisions Not To Disclose or Amend Records

#### § 10.51 General.

(a) Each officer or employee of the Department who, upon a request by a member of the public for a record

under this part, makes a determination that access is not to be granted or who determines not to amend a record in a requested manner, gives a written statement of the reasons for that determination to the person making the request and indicates the name and title or position of each person responsible for the denial of such request and the procedure for appeal within the Department.

(b) Any person:

(1) Who has been given a determination pursuant to paragraph (a) of this section, that access will not be granted; or

(2) Who has been informed that an amendment to a requested record will not be made;

may apply to the Administrator concerned, or in the case of the Office of the Secretary, to the General Counsel of the Department, for review of that decision. A determination that access will not be granted or a record amended is not administratively final for the purposes of judicial review unless it was made by the Administrator concerned or his or her delegee, or the General Counsel or his or her delegee, as the case may be. Upon a determination that an appeal will be denied, the requester is informed in writing of the reasons for the determination, and the names and titles or positions of each person responsible for the determination, and that the determination may be appealed to the District Court of the United States in the district in which the complainant resides, or has his or her principal place of business, or in which the records are located, or in the District of Columbia.

(c) Each application for review must be made in writing and must include all information and arguments relied upon by the person making the request. It is recommended that such request be made within 180 days of the date of the initial denial; however, exceptions to this time period are considered in the event that a longer time is required for good reasons.

(d) Upon a determination that a request for the correction of a record will be denied, the requester is informed that he may file a concise statement in accordance with § 10.45.

(e) Each application for review must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the application is sent should be marked prominently with the words "Privacy Act." If these requirements are not met, the time limits described in § 10.43 do not begin to run until the application has been identified by an employee of the Department as an application under the Privacy Act and has been received by the appropriate office.

(f) The Administrator concerned, or the General Counsel, as the case may be, may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the Administrator concerned, or the General Counsel, as the case may be, as to the availability of the record or whether to amend the record is administratively final.

(g) The decision by the Administrator concerned, or the General Counsel, as the case may be, not to disclose a record under this part is considered a determination for the purposes of section 552a(g) of Title 5, United States Code, "Civil Remedies."

(h) Any final decision by an Administrator or his or her delegee, identified in Appendices B through J of this part, not to grant access to or amend a record under this part, is subject to concurrence by the General Counsel or his or her delegee.

**Subpart G—Exemptions**

**§ 10.61 General exemptions.**

(a) The Assistant Secretary for Administration, with regard to the Investigations Division; the Federal Aviation Administrator, with regard to the FAA's Investigative Record System (DOT/FAA 815) and also with regard to the police functions of the National Capital Airport Police; the Commandant of U.S. Coast Guard, with regard to the Intelligence and Security Division; and the Federal Railroad Administrator, with regard to the Alaska Railroad Special Agents, may exempt from any part of the Act and this part except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11), and (i) of the Act, and implementing §§ 10.35, 10.23 (a) and (b), 10.21(d) (1) through (6), 10.81 10.83, and 10.85, any systems of records, or portions thereof, which they maintain which consist wholly of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) The requirements (including general notice) of sections 553(b) (1), (2) and (3), and (c) and (e) of Title 5, United States Code, will be met by

publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the system; and  
 (2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to concurrence by the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of Part 5 of this Title, to institute a rulemaking proceeding for the amendment or repeal of any exemptions established under this section.

**§ 10.63 Specific exemptions.**

The Secretary or his or her delegee, in the case of the Office of the Secretary, or the Administrator or his or her delegee, in the case of an operating administration, may exempt any system of records which is maintained by the Office of the Secretary or the administration, as the case may be, from subsections (c)(3), (d), (e) (1), and (4) (G), (H), and (I), and (f) of the Act and implementing §§ 10.23(c); 10.35(b); 10.41; 10.43; 10.45; 10.21(a) and 10.21(d) (6), (7) and (8), under the following conditions:

(a) The system of records must consist of:

(1) Records subject to the provisions of section 552(b)(1) of Title 5, United States Code;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of paragraph (a)(2) of § 10.61: *Provided, however,* That if any individual is denied any right, privilege, or benefit to which that individual would otherwise be entitled by Federal law, or for which that individual would otherwise be eligible, as a result of the maintenance of such material, such material is provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, the effective date of the Privacy Act of 1974, under an implied promise that the identity of the source would be held in confidence;

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18, United States Code;

(4) Records required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, mili-

tary service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, the effective date of the Privacy Act of 1974, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) The requirements (including general notice) of sections 553(b) (1), (2) and (3), and (c) and (e) of Title 5, United States Code, will be met by publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the systems; and  
 (2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to the concurrence of the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of 49 CFR Part 5, to institute a rulemaking for the amendment or repeal of any exemptions established under his section.

**Subpart H—Fees**

**§ 10.71 General.**

This subpart prescribes fees for services performed for the public under this part by the Department.

**§ 10.73 Payment of fees.**

The fees prescribed in this subpart may be paid by check, draft, or postal money order payable to the Treasury of the United States.

**§ 10.75 Fee schedule.**

(a) Copies of documents by photocopy or similar method:	
Each page not larger than 11 x 17 inches:	
1 page.....	0.25
Each additional page.....	.05
(b) Copies of documents by typewriter:	2.00
Each page.....	

(c) Certified copies of documents:	
(1) With Department of Transportation seal.	3.00
(2) True copy, without seal.....	1.00
(d) Photographs:	
(1) Black and white print (from negative).	1.25
(2) Black and white print (from print).....	3.15
(3) Color print (from negative).....	3.50
(4) Color print (from print).....	6.25
(e) Duplicate data tapes—each reel of tape or fraction thereof.	36.00

The applicant must furnish the necessary number of blank magnetic tapes. The tapes must be compatible for use in the supplier's computer system, ½ inch wide and 2,400 feet long, and must be capable of recording data at a density of 556 or 800 characters per inch. Unless otherwise designated, the tapes will be recorded at 556 CPI density. The Department of Transportation is not responsible for damaged tape. However, if the applicant furnishes a replacement for a damaged tape, the duplication process is completed at no additional charge.

(f) Microreproduction fees are as follows:	
(1) Microfilm copies, each 100-ft roll or less.	3.75
(2) Microfiche copies, each standard size sheet (4x6 in containing up to 65 frames).	.15
(3) Aperture card to hard copy, each copy	.50
(4) 16mm microfilm to hard copy:	
First	.25
Additional	.07
(g) Computerline printer output, each 1,000 lines or fraction thereof	1.00

#### § 10.77 Services performed without charge.

(a) No fee is charged for time spent in searching for records or reviewing or preparing correspondence related to records subject to this part.

(b) No fee is charged for documents furnished in response to:

(1) A request from an employee or former employee of the Department for copies of personnel records of the employee;

(2) A request from a Member of Congress for official use;

(3) A request from a State, territory, U.S. possession, county or municipal government, or an agency thereof;

(4) A request from a court that will serve as a substitute for the personal court appearance of an officer or employee of the Department;

(5) A request from a foreign government or an agency thereof, or an international organization.

(c) Documents are furnished without charge or at a reduced charge, if the Assistant Secretary of Administration or the Administrator concerned, as the case may be, determines that waiver or reduction of the fee is in the public interest, because furnishing the information can be considered as primarily benefiting the general public.

(d) When records are maintained in computer-readable form rather than human-readable form, one printed copy is made available which has been translated to human-readable form without a charge for translation but in

accordance with § 10.75(g), regarding computer line-printed charges.

#### Subpart I—Criminal Penalties

##### § 10.81 Improper disclosure.

Any officer or employee of the Department who by virtue of his or her employment of official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this part and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, is guilty of a misdemeanor and fined not more than \$5,000 in accordance with 5 U.S.C. 552a(i)(1).

##### § 10.83 Improper maintenance of records.

Any officer or employee of the Department who willfully maintains a system of records without meeting the notice requirements of § 10.21(d) is guilty of a misdemeanor and fined not more than \$5,000 in accordance with 5 U.S.C. 552a(i)(2).

##### § 10.85 Wrongfully obtaining records.

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Department under false pretenses is guilty of a misdemeanor and fined not more than \$5,000 in accordance with 5 U.S.C. 552a(i)(3).

#### APPENDIX A—EXEMPTIONS

##### Part I. General exemptions.

Those portions of the following systems of records that consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i):

A. The General Investigations Record System maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

B. Police Warrant Files and Central Files maintained by the Police Branches, Washington National and Dulles International Airports, Federal Aviation Administration (DOT/FAA807).

C. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Intelligence and Security Division, U.S. Coast Guard, at headquarters and district offices.

D. The files maintained by the Federal Aviation Administration regarding criminal investigations conducted by offices of Investigations and Security at headquarters and FAA Regional and Center Security Divisions (DOT/FAA 815).

The purpose of these exemptions is to prevent the compromise or impairment of criminal investigations conducted by the Office of Investigations and Security, OST; the Airport Police Branches; and the Investigations and Security Division, USCG.

##### Part II. Specific exemptions.

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance with 5 U.S.C. 552a(k)(2):

1. Investigative Record System maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, FAA Headquarters, Washington, D.C. (DOT/FAA 805).

2. FHWA Investigations Case File System, maintained by the Office of Program Review and Investigations, Federal Highway Administration (DOT/FHWA 214).

3. FHWA Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases, maintained by the Bureau of Motor Carrier Safety, Federal Highway Administration (DOT/FHWA 204).

4. Recreational Boating and Law Enforcement Cases (DOT/CG 505), maintained by the Office of Boating Safety, U.S. Coast Guard.

5. Port Safety Reporting System—Individual Violation Histories (DOT/CG 561), maintained by the Office of Marine Environment and Systems, U.S. Coast Guard.

6. Merchant Vessel Casualty Reporting System (DOT/CG 590), maintained by the Office of Merchant Safety, U.S. Coast Guard.

7. U.S. Merchant Seaman's Records (DOT/CG 589), maintained by the Office of Merchant Safety, U.S. Coast Guard.

8. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

9. Port Security Case System (DOT/CG 612), maintained by the Office of Operations, U.S. Coast Guard.

10. DOT/NHTSA Investigations of Alleged Misconduct or Conflict of Interest, maintained by the Associate Administrator for Administration, National Highway Traffic Safety Administration (DOT/NHTSA 458).

11. Investigations of Violations of Marine Safety Laws (DOT/CG 587), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

12. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to protect investigatory materials compiled for law enforcement purposes. Disclosure of such material would hamper law enforcement by prematurely disclosing the knowl-

edge of illegal activity and the evidentiary basis for possible enforcement actions.

B. The following systems of records are exempt from subsections (c)(3) (Accounting of Certain Disclosures), and (d) (Access to Records) of 5 U.S.C. 552a:

1. Alaska Railroad Security and Freight Claims Investigatory Files maintained by the Alaska Railroad, Federal Railroad Administration (DOT/FRA 102).

2. Administrative Action and Legal Enforcement System, maintained by the Chief Counsel, Federal Aviation Administration (DOT/FAA 805).

3. Investigations Record System, maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

The purpose of these exemptions is to prevent the compromise or impairment of law enforcement investigations by altering individuals that they are the subject of investigation, and to prevent the disclosure of the identity or sources of information promised confidentiality, in accordance with 5 U.S.C. 552a(k)(2).

C. The system of records known as the Alaska Railroad Examination of Operating Personnel, maintained by the Alaska Railroad, Federal Railroad Administration (DOT/FRA 100), is exempt from the provisions of subsection (d) of 5 U.S.C. 552a. The release of these records would compromise their value as impartial measurement standards for appointment and promotion within the Federal Service.

D. Those portions of the following systems of records consisting of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or access to classified information or used to determine potential for promotion in the armed services, are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a to the extent that disclosure of such material would reveal the identity of a source who provided information to the government under an express or, prior to September 27, 1975, an implied promise of confidentiality (5 U.S.C. 552a(k) (5) and (7)):

1. Personnel Security Record Systems, maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

2. Intelligence and Security Investigative Case System (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

3. Officer Selection and Appointment System (DOT/CG 625), maintained by the Office of Personnel, U.S. Coast Guard.

4. Official Officer Service Records (DOT/CG 626), maintained by the Office of Personnel, U.S. Coast Guard.

5. Enlisted Recruiting Selection Record system maintained by the Office of Personnel, U.S. Coast Guard.

6. Officer, Enlisted, and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personnel, U.S. Coast Guard.

7. Enlisted Personnel Record System, (DOT/CG 629), maintained by the Office of Personnel, U.S. Coast Guard.

8. Coast Guard Personnel Security Program (DOT/CG 633), maintained by the Office of Personnel, U.S. Coast Guard.

9. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

10. Investigative Record System, maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C. (DOT/FAA 815).

11. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

12. Files pursuant to suitability for employment with National Highway Traffic Safety Administration (DOT/NHTSA-457) containing confidential investigatory reports.

The purpose of these exemptions is to prevent disclosure of the identities of sources who provide information to the government concerning the suitability, eligibility, or qualifications of individuals for Federal civilian employment, contracts, access to classified information, or appointment or promotion in the armed services, and who are expressly or, prior to September 27, 1975, implied promised confidentiality (5 U.S.C. 552a(k)(5) and (7)).

E. Those portions of the following systems of records consisting of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service are exempt from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Officer, Enlisted and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personnel, U.S. Coast Guard.

2. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

3. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

4. Suitability Files (DOT/NHTSA 457), maintained by the National Highway Traffic Safety Administration personnel offices to determine suitability for employment prior to hiring.

The purpose of these exemptions is to preserve the value of these records as impartial measurement standards for appointment and promotion within the Federal service.

F. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552(b)(1) are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Investigations Records System maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

2. Personnel Security Records System, maintained by the Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

3. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to prevent the disclosure of material authorized to

be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

G. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552a(b)(1) are exempt from subsections (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records) of 5 U.S.C. 552a:

1. Investigative Records System (DOT/FAA 815), maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

## APPENDIX B

### OFFICE OF THE SECRETARY

1. *Introduction.* This Appendix, with respect to the Office of the Secretary:

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Office of the Secretary;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

An individual requiring assistance, concerning this Appendix or systems maintained in the Office of the Secretary, may contact the Privacy Act Officer, or Privacy Act Coordinator, Office of the Assistant Secretary for Administration, M-20, 400 Seventh Street SW., Washington, D.C. 20590.

2. *Availability for Inspection and Copying.*

a. Records in systems maintained in the Office of the Secretary (OST) are available at 400 Seventh Street SW., Washington, D.C., except where otherwise noted:

(1) Records are maintained at 2100 Second Street SW., Washington, D.C., for the following systems:

(a) DOT/OST 011 Discrimination Complaint Investigative Files;

(b) DOT/OST 042 Technical Pipeline Safety Standards Committee.

(2) DOT/OST 013 Employee Management Files: Records for the employees at each location are located as delineated in the system notice.

(3) DOT/OST 015 Funds Management Records: Central records are maintained at 400 Seventh Street SW., Washington, D.C. Records for the application region are maintained in the office of each of the eleven Regional Emergency Transportation Coordinators, as delineated in the system notice.

(4) DOT/OST 022 National Defense Executive Reserve File: Complete records are maintained at 400 Seventh Street SW., Washington, D.C. Applicable records are maintained in a wide variety of field offices as delineated in the system notice.

(5) DOT/OST 028 Personnel Convenience Files: Employee records applicable to the

Complaints Division of the Office of the Civil Rights of the Office of the Secretary are located at 2100 Second Street SW., Washington, D.C. All other records are located at 400 Seventh Street SW., Washington, D.C.

(6) DOT/OST 043 Telephone Directory and Locator System: Records are stored on magnetic tape at 13 Massachusetts Avenue NW., Washington, D.C. However, access is controlled by the System Manager: Chief, Accounting Operations Center, Rom 2228, 400 Seventh Street SW., Washington, D.C.

(7) DOT/OST 048 Transportation Research Activities Information System: Records are stored on magnetic tape at the Transportation Systems Center, Cambridge, Massachusetts. Individuals desiring access to their own personal data should contact the System Manager: Chief, Resources Management Division, DPA-20, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(8) DOT/OST 049 Transportation Research Information System: Records are maintained on magnetic tape at the Battelle Laboratories, Columbus, Ohio. Individuals desiring access to their own personal data should contact the System Manager: Chief, Resources Management Division, DPA-20, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(9) DOT/OST 050 Executive Team Cadre Listings: Records are maintained at 400 Seventh Street SW., Washington, D.C., and at the offices of the Regional Emergency Transportation Coordinators, as delineated in the system notice.

(10) Records are maintained at the Transportation Systems Center, Kendall Square, Cambridge, Massachusetts, for the following systems:

(a) DOT/TSC 700 Automated Management Information Systems;

(b) DOT/TSC 701 Employee Travel Records;

(c) DOT/TSC 702 Legal Counsel Information Files;

(d) DOT/TSC 703 Occupational Safety and Health Reporting Systems;

(e) DOT/TSC 704 Stand-by Personnel Information;

(f) DOT/TSC 706 Automated Planning System;

(g) DOT/TSC 707 Automated Manpower Distribution System;

(h) DOT/TSC 708 Combined Federal Campaign Information;

(i) DOT/TSC 709 Minority Information Files;

(j) DOT/TSC 711 Blood Donor Information Files;

(k) DOT/TSC 712 Automated Payroll / Personnel / Communications / Security System;

(l) DOT/TSC 713 Employee Payroll-Manpower Distribution System;

(m) DOT/TSC 714 Health Unit Employee Medical Records;

(n) DOT/TSC 715 Bi-Weekly Personnel Status Report.

b. Records are available for inspection and copying at the applicable locations delineated above between the hours of 9 A.M. and 5:30 P.M., except Saturdays, Sundays, and holidays. Access to certain records may be restricted in accordance with exemptions applied and noticed in accordance with sections 3(j) and (k) of the Privacy Act of 1974. Individuals desiring access to their own records should follow the instructions contained in the system notice published for

each system of records. Request for access shall be submitted to the System Manager having responsibility for the system in which the records are maintained, unless the system notice describing the system prescribes or permits submission to some other official or officials.

3. *Systems of Records.* A compilation of notices describing the systems of records maintained in the Department of Transportation is published annually in the FEDERAL REGISTER. The notices describing the systems maintained in the Office of the Secretary are published in a block within the overall compilation and each is identified by a three-digit number preceded by the acronym, OST; e.g., OST 013 (except those maintained at the Transportation Systems Center which uses the acronym, TSC; e.g., TSC 701). The basic compilation of system notices, for systems subject to the Privacy Act of 1974, which are maintained in the Office of the Secretary, is published in the FEDERAL REGISTER annually.

4. *Access to Records.* Requests for access to records are processed in accordance with the rules provided in Subpart D of these regulations.

a. A request from an individual for access to a record pertaining to such individual is granted promptly unless:

(1) The record was compiled in reasonable anticipation of a civil action or proceeding; or

(2) The system of records is one which has been exempted from the notification and access provisions of the Privacy Act by rule-making; or

(3) The record is not part of a system of records required to be noticed in accordance with the provisions of the Privacy Act and is not otherwise required to be made available by a law or regulation; or

(4) The System Manager or other cognizant official determines that the particular circumstances justify denial or access; or

(5) The information requested is contained in and is inseparable from another individual's record.

b. When information sought from a system of records in the Office of the Secretary includes information that has been furnished by an operating element of the Department or by another agency, as the case may be, the Systems Manager or other cognizant official consults the operating element or the other agency, as the case may be, before granting access. If referral of the request to the operating element or the other agency, as the case may be, will provide a more expeditious decision with resulting probable access, the request may be referred to the operating element or the other agency, as the case may be, but the requester is notified of the referral.

c. When a Systems Manager or other cognizant official in the Office of the Secretary determines that a request for access should be denied, the request and the reason(s) for the determination are referred to the Assistant Secretary for Administration for decision. In the event of a decision to deny access, the Office of the Assistant Secretary for Administration notifies the requester in writing in accordance with section 10.51 of these regulations.

5. *Requests to Correct or Alter Records.* An individual may request that a record pertaining to such individual be amended to correct any portion thereof which such individual believes is not accurate, relevant, timely, or complete.

a. A request to amend a record must:

(1) Be in writing and signed by the individual to whom the record pertains;

(2) Be clearly marked "Request for Amendment of Record";

(3) Contain a statement that the request is being made under the provisions of the Privacy Act of 1974;

(4) Contain the name and address of the individual making the request;

(5) Specify the name and location of the systems of records, as set forth in the system notice, in which the record is maintained;

(6) Specify the title and business address of the official designated in the "Contesting Record Procedures" paragraph of the applicable system notice;

(7) Specify the particular record in the system which the individual is seeking to amend;

(8) Clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reason for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition; and

(9) Be addressed to or delivered in person to the office of the official designated in the "Contesting Records Procedures" paragraph of the applicable system notice. A request delivered to an office in person must be delivered during the regular office hours of that office.

6. *Personal Identification Requirements.* Generally, the identification rules in paragraph 10.35 of these regulations apply to systems maintained in the Office of the Secretary. In addition, specific requirements for some systems are delineated below:

a. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 001 General Employee Records System;

(2) OST 030 Personal Management Convenience Files.

(NOTE.—An individual's social security number is an optional means of identification, which may be supplied in lieu of notarization. Social security numbers are used on these records as authorized under the provisions of Executive Order 9397, dated November 22, 1943.)

b. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 006 Confidential Statement of Employment and Financial Interests; and

(2) OST 037 Records of Confirmation Proceeding Requirements.

c. The number of the Federal Emergency Assignee Identification Card (SF 138) issued to the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 022 National Defense Executive Reserve File;

(2) OST 036 Planning Officials for Emergency Functions and;

(3) OST 050 Executive Team Cadre Listings.

d. The name of the applicable advisory committee is required for notification and access to records in the following system: OST 008 Departmental Advisory Committee Files.

APPENDIX C

UNITED STATES COAST GUARD

1. *Introduction.* This Appendix supplements the procedures set forth for the Department of Transportation in Subparts A through I of 49 CFR Part 10.

2. *Availability for Inspection and Copying.*

a. Individuals who wish the Coast Guard to examine a system of records covered by this part to determine whether any records in the system contain information about them or who wish to gain access to or receive copies of records which contain information about them, should address written requests either to the appropriate system manager as listed in the annual description of Coast Guard record systems appearing in the FEDERAL REGISTER or to: Commandant (G-CMA), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590. Requests may also be delivered in person to the above address between 7:30 a.m. and 4 p.m. (Monday through Friday, excluding holidays).

b. The Coast Guard acknowledges requests for notification of the existence of a record within ten working days (excluding Saturdays, Sundays and holidays) after receipt of a completed request. The Coast Guard makes every effort within 30 days of the receipt of a request for access to a record to:

- (1) Make the record available;
- (2) Notify the requester of the need for additional information; or
- (3) Notify the requester of any denial, either in whole or in part, of access to a record. Para. 3 of this Appendix sets forth the addresses of Coast district offices and headquarters units where records in decentralized systems may be located.

3. *Systems of Records.* The annual notice of systems of records required by 5 U.S.C. 552a(e)(4) with respect to records maintained by the Coast Guard is set forth in the FEDERAL REGISTER. Assistance may be requested in exercising his or her rights by an individual addressing the Privacy Act Coordinator at one of the following U.S. Coast Guard offices nearest his residence:

- a. Commander, 1st Coast Guard District, 150 Causeway Street, Boston, MA 02114.
- b. Commander, 2nd Coast Guard District, Federal Building, 1520 Market Street, St. Louis, MO 63013.
- c. Commander, 3rd Coast Guard District, Governors Island, New York, NY 10004.
- d. Commander, 5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705.
- e. Commander, 7th Coast Guard District, Federal Building, 51 S.W. 1st Avenue, Miami, FL 33130.
- f. Commander, 8th Coast Guard District, Customhouse, New Orleans, LA 70130.
- g. Commander, 9th Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199.
- h. Commander, 11th Coast Guard District, Heartwell Building, 19 Pine Avenue, Long Beach, CA 90802.
- i. Commander, 12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126.
- j. Commander, 13th Coast Guard District, Federal Building, 915 Second Avenue, Seattle, WA 98174.
- k. Commander, 14th Coast Guard District, P.O. Box 48, FPO San Francisco 96610.
- l. Commander, 17th Coast Guard District, FPO Seattle 98771.

m. Superintendent, U.S. Coast Guard Academy, New London, CT 06320.

n. Commanding Officer, U.S. Coast Guard Yard, Curtis Bay, Baltimore, MD 21225.

o. Commanding Officer, U.S. Coast Guard Training Center, Governors Island, New York, NY 10004.

p. Commanding Officer, U.S. Coast Guard Training Center, Cape May, NJ 08204.

q. Commanding Officer, U.S. Coast Guard Training Center, Government Island, Alameda, CA 94501.

r. Commanding Officer, U.S. Coast Guard Supply Center, 830 3rd Avenue, Brooklyn, NY 11232.

s. Commanding Officer, U.S. Coast Guard Institute, P.O. Substation 18, Oklahoma City, OK 73169.

t. Commanding Officer, U.S. Coast Guard Aircraft Repair & Supply Center, Elizabeth City, NC 27909.

u. Commanding Officer, U.S. Coast Guard Aviation Training Center, Mobile, AL 36608.

v. Commanding Officer, U.S. Coast Guard Radio Station (NMH), 7223 Telegraph Road, Alexandria, VA 22310.

w. Commanding Officer, U.S. Coast Guard Reserve Training Center, Yorktown, VA 23490.

x. Officer in Charge, Record Depot, U.S. Coast Guard Air Station, Elizabeth City, NC 27909.

y. Commander, Coast Guard Activities, Europe, London, Box 50, FPO New York 09510.

z. Commanding Officer, U.S. Coast Guard Training Center, Petaluma, CA 94952.

aa. Commander, U.S. Coast Guard Air Base, Elizabeth City, NC 27909.

bb. Commanding Officer, U.S. Coast Guard Electronics, Engineering Center, Wildwood, NJ 08260.

cc. Commanding Officer, Research & Development Center, Avery Point, Groton, CT 063410.

dd. Commanding Officer, U.S. Coast Guard Oceanographic Unit, Building 159E, Navy Yard Annex, Washington, D.C. 20590.

4. *Access to Records.*

a. The Coast Guard honors only those requests for notification, access, or amendment made by:

- (1) the individual to whom the record pertains;
- (2) the parent or guardian of a minor to whom the record pertains;
- (3) the legal guardian of a person to whom the record pertains when that person has been declared incompetent by reason of physical or mental disability by a court having jurisdiction of the matter; or

If made by a person other than the individual to whom the record pertains, the request must specify the relationship of the requester to that individual.

b. Written requests for information or amendment must be signed by the requester. Requests for access to records containing sensitive or detailed personnel information (including, but not limited to, earnings and tax statements, employee payroll records, employee grievance and appeal files, civilian, officer, and enlisted personnel files, and health and medical records (subject to the conditions of 49 CFR 10.33(b))) may be required to contain the following notarized certification:

I, \_\_\_\_\_, do hereby certify that I am the individual to whom the record in question pertains.  
(or)

I am the parent or guardian of the minor to whom the record in question pertains.

(or)

I am the legal guardian of the individual determined by a court to be incompetent to whom the record in question pertains.

Notarization \_\_\_\_\_  
(Signature) \_\_\_\_\_  
(Date) \_\_\_\_\_

5. *Requests to Correct or Alter Records.* The official responsible for administering a system of records, in consultation as appropriate with the System Manager, Privacy Act Coordinator, and Privacy Act officer, initially determines whether to grant requests under 49 CFR 10.41 to amend records. Requests must be made as provided in paragraph 2a. of this Appendix. Requests for amendment must contain a complete description of the item sought to be changed and documentation to substantiate the grounds for the requested change. The Coast Guard acknowledges the receipt of completed requests for amendment within ten working days. As promptly as possible the Coast Guard advises the requester whether or not the change has been made, and in cases where a change has been made, transmits a copy of the amended record to the requester.

a. When a request for access to a record or amendment of a record is denied, in whole or in part, the manager of the system of records involved notifies the requester in writing, of the reasons for the denial and furnishes the requester a statement of the name and position or title of each person responsible for the denial. The requester also is advised of the right to file a written appeal of the adverse decision within 180 days of receipt of the initial denial. Appeals must be addressed to: Commandant (G-CMA), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590.

b. Within 30 working days of the receipt of a written appeal, the Commandant or his designee makes an independent review of the record and decides whether or not to make the requested disclosure or amendment. If the appeal is granted, the Coast Guard promptly notifies the requester of the decision in writing and transmits to the requester a copy of the record or amended record. If the appeal is denied, the Coast Guard promptly notifies the requester, in writing, of the reasons for the denial and furnishes the requester a statement of the name and position or title of each person responsible for the denial. The Coast Guard also informs the requester of the right to seek judicial review of the adverse decision pursuant to 5 U.S.C. 552a(g)(1).

c. In addition to appealing an adverse determination of a request to amend a record, the requester may file a concise "statement of disagreement" setting forth the reasons for disagreeing with the refusal of the Coast Guard to amend the record. The notification by the Coast Guard of the denial of an initial request for amendment or the denial of an administrative appeal for an amendment informs the requester of the right to file a statement of disagreement.

d. The Commandant of the Coast Guard, by Commandant Instruction 5212.11 (26 September 1975), has redelegateated to the Chief of Staff the authority under 49 CFR Part 10 to:

(1) exempt systems of records from certain provisions of the Privacy Act;

(2) make final administrative determinations not to disclose or amend a record; and

(3) issue extensions of review time.

This authority may not be redelegated further.

#### 6. Personal Identification Requirements.

a. When an individual requests notification, access, or amendment in person, he or she must show identification such as a driver's license, military or employment identification card, credit card, or medicare card. An individual requesting in person information about or amendment to a "sensitive" record may be required to complete the notarized certification set forth in paragraph 4.b of this Appendix.

b. The Coast Guard may require more specific information in order to establish the identity of a requester. For example, the Coast Guard may require that a legal guardian or personal representative produce certified copies of court documents appointing him to his position. The Coast Guard may independently verify the identity of a requester by telephone contact with the requester, personal identification by Coast Guard employees who may know the requester, or any other lawful means considered appropriate under the circumstances.

c. An individual may be accompanied by a person of the individual's choosing while reviewing records to which he or she has been granted access. *Provided*, That the individual signs a statement authorizing the accompanying person to do so. An individual granted access to a record may be required to sign and notarize a statement authorizing the Coast Guard to release the record to a person (e.g., his attorney) designated by the individual.

d. No request for information or amendment is considered complete until all necessary identification material has been provided. No copies of records are provided to individuals until they pay appropriate fees as set forth in 49 CFR Subpart H.

### APPENDIX D

#### FEDERAL AVIATION ADMINISTRATION

##### 1. Introduction. This Appendix:

a. Describes the procedures for determining if an individual is the subject of a record maintained by the Federal Aviation Administration;

b. Describes the availability of records and prescribes requirements for identifying an individual who requests a record pertaining to him or her;

c. Prescribes procedures for granting access to an individual upon that individual upon that individual's request for the record pertaining to him or her;

d. Prescribes procedures for reviewing a request from an individual concerning the amendment of any record pertaining to him or her;

e. Prescribes procedures for making a determination on the request of an individual for amendment of any record pertaining to him or her; and

f. Prescribes procedures for an appeal within the FAA of a determination not to grant access to or amendment of records.

2. *Availability for Inspection and Copying.* Records may be inspected at the FAA facility identified for the particular system of records appearing in the systems notices published in the FEDERAL REGISTER. These facilities are open to the public during regu-

lar business hours, except Saturday, Sundays, and Federal holidays.

#### 3. Systems of Records.

a. A list of FAA systems of records pertaining to the Privacy Act indicating the geographic locations and the responsible systems managers has been published in the FEDERAL REGISTER and appears as follows:

(1) August 27, 1975 on pages 38829-38839;

(2) November 19, 1975 on pages 53967-53978; and

(3) March 1, 1976 on pages 8820-8821.

b. Any individual who is unable to determine in which FAA-maintained system the records pertaining to him or her may be found may submit a written request for assistance to the attention of the Privacy Act Coordinator located at the region or center nearest to his residence. The addresses for the regional and center facilities of the FAA are listed below:

(1) FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591;

(2) Alaskan Region, 632 Sixth Avenue, Anchorage, AK 99501;

(3) Central Region, 601 East 12th Street, Kansas City, MO 64106;

(4) Southern Region, 3400 Whipple Street, East Point, GA (Mailing address: P.O. Box 20636, Atlanta, GA 30320);

(5) Southwest Region, 4400 Blue Mound Road (Mailing address: P.O. Box 1689, Fort Worth, TX 76101);

(6) Western Region, 5651 West Manchester Avenue (Mailing address: P.O. Box 92007, Los Angeles, CA 90009);

(7) Eastern Region, Federal Building, JFK International Airport, Jamaica, NY 11430;

(8) Pacific Region, 1833 Kalakaua Avenue (Mailing address: P.O. Box 4009, Honolulu, HI 96813);

(9) Aeronautical Center, 6400 South MacArthur Boulevard (Mailing address: P.O. Box 25082, Oklahoma City, OK 73125);

(10) National Aviation Facilities Experimental Center, Tilton Road, Route 563 (near Pomona, NJ). (Mailing address: Atlantic City, NJ 08405);

(11) New England Region, 12 New England Executive Park, Burlington, MA 01803;

(12) Great Lakes Region, 2300 East Devon, Des Plaines, IL 60018;

(13) Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; and

(14) Northwest Region, FAA Building, 9010 East Marginal Way South, King County International Airport (Boeing Field), Seattle, WA 98108.

#### 4. Access to Records.

a. Any individual desiring to inspect a record or obtain a copy thereof to determine if it contains information pertaining to him or her must present a written request in accordance with the provisions of this section. An individual making a request under this section may either appear in person or submit a request by mail to the address and attention of the system manager as it appears in the list of systems of records published in the FEDERAL REGISTER. The individual must first determine in which system of records he or she believes the particular records pertaining to him or her are maintained by examining the categories of records and routine uses in the list of the systems of records published in the FEDERAL REGISTER and available at the addresses set forth in paragraph 3.b of this Appendix.

b. The individual must include in the request the information necessary to identify the specific system of records as it appears

in the list of the systems of records of the FAA published in the FEDERAL REGISTER.

c. Upon request by any individual to gain access to an FAA record that contains information pertaining to him or her, the FAA official responsible for the record informs the individual whether the requested record is exempt under subpart G of this part.

d. An individual making a request under this section is permitted to inspect and have a copy made of any record pertaining to him or her in a form comprehensible to him or her, if—

(1) He or she has given identification in accordance with section 6 of this Appendix;

(2) The record is not exempt under subpart G of this part; and

(3) The record was not compiled in reasonable anticipation of a civil action or proceeding.

e. Notwithstanding paragraph d of this section, if an individual requesting a record pertaining to him or her is accompanied by a person of his or her own choosing to review the record, the individual making the request must submit a signed statement authorizing the discussion of the record in the presence of the accompanying person.

f. Each request for a record determined to be releasable under paragraph d of this section is complied with within ten days, excluding Saturdays, Sundays, and Federal holidays. If additional time is necessary to make the requested record comprehensible to the individual requesting it, the FAA official responsible for the record notifies the individual within ten days of the request of the estimated time required to fill the request.

g. Any individual whose request for access to a record pertaining to him or her is denied may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

#### 5. Requests to Correct or Alter Records.

a. Any individual may request an amendment of any record pertaining to him or her maintained by the FAA in a system of records, by submitting the request in writing to the attention of the FAA official responsible for the record at the address appearing in the list of systems of records published in the FEDERAL REGISTER.

b. Each request for an amendment of a record must be accompanied by a written explanation as to why the individual believes the present record is not accurate, timely, relevant, or complete. The individual making the request may submit any documentation he or she wishes in support of his request.

c. Upon receipt of a request for an amendment of a record, the FAA official responsible for the record reviews the record and supporting documentation and determines if there is a sufficient basis upon which to make a decision to make the requested amendment.

d. If the FAA official responsible for the record determines under paragraph c of this section that additional information is necessary before a decision can be made as to whether to make the requested amendment, the official notifies the individual making the request to amend specifying what additional information is necessary.

e. If the FAA official responsible for the record determines that the requested amendment should be made, the official

amends the record, notifies the individual making the request, and sends to that individual a copy of the corrected record, as well as to other persons or agencies to whom the record may have been disclosed (See 49 CFR 10.23(d)).

f. If the FAA official responsible for the record determines that the requested amendment should be denied, the official forwards to his supervisor the request for amendment with all supporting documentation and reasons for the denial.

g. If the supervisor determines that the requested amendment should be made, the supervisor follows the procedures in paragraph e of this section.

h. If the supervisor determines that the requested amendment should be denied, the supervisor notifies the individual making the request of the denial, the reasons therefor, and informs the individual of the FAA procedures for appealing the denial.

i. Any individual whose request for correction or alteration of a record pertaining to him or her is denied may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

#### 6. Personal Identification Requirements.

a. Each individual making a request under this Appendix for a record pertaining to him or her must present appropriate identification before the requested record is released. Types of appropriate identification include—

(1) For requests made in person, a driver's license or employee identification card; and  
(2) For requests made by mail, name (printed or typed, and signature) and date of birth, or the unique identifier used in the system of records.

b. If an individual cannot provide appropriate identification as required in paragraph 6.a of this Appendix, or if the record requested is particularly sensitive, the FAA official responsible for the record may require the individual to sign a statement certifying his or her identity and understanding that knowingly and willfully to request or obtain any record concerning an individual from the FAA under false pretenses is a misdemeanor punishable by a fine of up to \$5,000 as provided in 5 U.S.C. 552a(i) (3).

#### APPENDIX E

##### FEDERAL HIGHWAY ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Federal Highway Administration (FHWA);

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the FHWA;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copy.* Places and times at which records are available for inspection and copying, and the system of records and systems managers having authority at each place.

a. *Headquarters:* The Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Time: 7:45 a.m.-4:15 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Accounts Receivable DOT/FHWA—Chief General Ledger and Funds Control Section.

2. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Occupational Safety Engineer.

3. Driver Waiver File (BMCS) DOT/FHWA—Chief, Driver Requirements Branch.

4. Employee Utilization Monthly Report DOT/FHWA—Chief, Data Systems Division.

5. Investigation Case File DOT/FHWA—Chief, Investigations and Special Inquiry Division.

6. Medal of Honor File DOT/FHWA—Chief, Compliance Division.

7. Memorandum of Monthly Performance of Key Punch Operators DOT/FHWA—Chief, TCC Operation (Groups A and B).

8. Motor Carrier Accident File (BMCS) Property and Passenger—Chief, Accident Analysis Branch.

9. Occupational Safety and Health Accident Reporting System DOT/FHWA—Occupational Safety Engineer.

10. Payroll Administration DOT/FHWA—Chief, Payroll and Employee Records Section.

11. Personnel Records (CSC Governmentwide) DOT/FHWA—Chief, Personnel Programs Division.

12. Travel Advance File DOT/FHWA—Chief, Voucher Review and Disbursement Section.

13. Travel Order (Change of Duty station) DOT/FHWA—Chief, Voucher Review and Disbursement Section.

14. University and Industry Programs Coding and Filing Systems DOT/FHWA—Administrative Assistant—National Highway Institute.

b. *Regional Offices:* Region 1—Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207. Time: 8:00 a.m.-4:30 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA Executive Officer, Region 3—Federal Highway Administration, George H. Fallon Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201. Time: 8:00 a.m.-4:30 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 4—Federal Highway Administration, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309. Time: 7:45 a.m.-4:15 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA Executive Officer, Region 5—Federal Highway Administration, 18209 Dixie Highway, Homewood, Illinois 60430. Time: 7:30 a.m.-4:00 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 6—Federal Highway Administration, 819 Taylor Street, Fort Worth, Texas 76102. Time: 8:00 a.m.-4:30 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 7—Federal Highway Administration, 6301 Rockhill Road, Kansas City, Missouri 64131. Time: 7:45 a.m.-4:15 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 8—Federal Highway Administration, P.O. Box 25246, Denver Federal Building Center, Denver, Colorado 80225. Time: 7:45 a.m.-4:15 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Payroll Administration DOT/FHWA—Appropriate Finance Officer.

4. Travel Advance File—DOT/FHWA—Executive Officer, Region 9—Federal Highway Administration, 2 Embarcadero Center, P.O. Box 7616, San Francisco, California 94120. Time: 7:45 a.m.-4:15 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File DOT/FHWA—Executive Officer, Region 10—Federal Highway Administration, 222 SW. Morrison Street, Portland, Oregon 97204. Time: 8:00 a.m.—4:45 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Driver Accident Cross-Reference File (BMCS) DOT/FHWA—Regional Director.

3. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

4. Payroll Administration DOT/FHWA—Appropriate Finance Officer.

5. Travel Advance File—DOT/FHWA—Executive Officer, Region 15—Federal Highway Administration, 1000 North Glebe Road, Arlington, Virginia 22201. Time: 7:45 a.m.—4:15 p.m.

*Systems of Records and Responsible Systems Manager:* Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

c. Division Officers (For location and hours of duty see 49 CFR Part 7).

*Systems of Records and Responsible Systems Managers:* Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Administrative Managers.

3. *Access to Records:*

a. Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records, or desiring access to such record, or to obtain a copy of such record, shall make request to the appropriate System Manager. In appropriate circumstances, oral requests are acted upon. Each request must specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

4. *Requests to Correct or Alter Records:*

a. The FHWA allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personnel records of active employees should be addressed to the responsible system managers specified in paragraph 2 above.

b. The System Managers provide written acknowledgment of the receipt of a request to amend a record to the individual within 10 days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the 10-day working period, no acknowledgment is required.

c. If the System Manager agrees with an individual's request to amend the person's record, the following steps are taken:

1. Correct the record accordingly.
2. Advise the individual in writing, and
3. If an accounting of disclosure has been made, advise all previous recipients of the record of the fact that the correction was made and the substance of the correction.

d. If the System Manager disagrees with all or any portion of the request to amend a record, he or she:

1. Proceeds as described above with respect to those portions of the record which will be amended.

2. Advises the individual of the refusal and the reason for not amending a record, indicating the name and title or position of each person responsible for the denial, and

3. Informs the individual of the right to appeal the decision not to amend a record to: Associate Administrator for Administration, Federal Highway Administration, Washington, D.C. 20590.

e. If after this review the FHWA refuses to amend the record on the individual requested, the FHWA advises the individual:

1. Of the refusal and the reason for it,
2. Of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the FHWA,
3. The procedures for filing the statement of disagreement,

4. That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed, and

5. Of the individual's right to seek judicial review of the FHWA's refusal to amend a record.

f. The final FHWA determination on the individual's request is concluded within 30 days of the receipt of the appeal unless for good cause shown, the Associate Administrator for Administration extends such period. Such final administrative decision addresses all information and arguments relied upon by the individual.

g. Each application for review by FHWA must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the application is sent should be marked prominently with the words "Privacy Act".

If these requirements are not met, the time limits described in § 10.43 do not begin until the application has been identified by an employee of the FHWA as an application under the Privacy Act and has been received by the appropriate office.

h. The Associate Administrator for Administration may require the person making a request to furnish additional information, or proof of factual allegations, and may order other appropriate proceedings. His or her decision as to the availability of a record or whether to amend a record is administratively final subject to the concurrence of the DOT General Counsel or his or her delegate. However, requests for review of denials of information contained in Government-wide systems of personnel records, which includes the FHWA Personnel Records System, are handled by the Civil Service Commission in accordance with 5 CFR 294.108 and 5 CFR 297.108.

i. If the Associate Administrator for Administration also refuses to grant access or to correct the individual's record, he or she advises the individual of:

1. The reason(s) for the refusal and the names, and titles or positions of each person responsible for the denial;

2. The individual's right to file a statement of disagreement; that the statement will be made available to anyone to whom the record is subsequently disclosed, and to prior recipients of the record (see Section 10.23(d)), and

3. The right to bring suit in the District Court of the United States in the district in which the individual resides, the district in which his principal place of business is located, the district in which the record(s) is located, or the District of Columbia.

5. *Personal Identification Requirements:*

a. When a record is applied for in person, the person so applying must, unless person-

ally known to the custodian of the records, furnish adequate identification. Such identification may consist of an employee identification card, Medicare Card, driver's license, or a similar document.

b. When a record is applied for by mail, sufficient information to identify the individual must be furnished, and a notarized statement as to the identity of the requester may be required in some instances when the record involved contains particularly sensitive information in the judgment of the systems manager.

APPENDIX F

FEDERAL RAILROAD ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Federal Railroad Administration (FRA):

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Federal Railroad Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Places and times at which records are available for inspection and copying and the systems of records and systems managers having authority to deny requests for disclosure at each facility.

a. Records in systems maintained in the Federal Railroad Administration are available at the Alaska Railroad, Anchorage, Alaska 99510, 9:00 a.m.—4:00 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Alaska Railroad Examination of Operating Personnel; DOT/FRA Operations Officer (System Manager).

2. Alaska Railroad Personnel and Pay Management Information System; DOT/FRA—General Manager (System Manager).

3. Alaska Railroad Security and Freight Claims Investigatory Files; DOT/FRA—Chief, Security and Claims Office (Systems Manager).

b. *Places:* The Alaska Railroad, Anchorage, Alaska 99510. Hours: 9:00 a.m.—4:00 p.m.

*Systems of Records and Responsible Systems Managers:*

1. Application for (Vehicle) Operator's Identification Card; DOT/FRA—Director, Office of Administrative Operations (System Manager).

2. Confidential Statement of Employment and Financial Interest; DOT/FRA—Chief Counsel, Office of the Chief Counsel (System Manager).

3. Employee Travel Records; DOT/FRA—Accounting Officer, Accounting Division (System Manager).

4. Occupational Safety and Health Reporting System; DOT/FRA—FRA Safety Manager, Office of Administrative Operations (System Manager).

5. Office of Safety Past Employees Files; DOT/FRA—Deputy Associate Administrator for Safety (System Manager).

6. Personnel and Pay Management Information Systems; DOT/FRA—Director, Office of Personnel and Training (System Manager).

7. Travel Advance Records; DOT/FRA—Director, Office of Administrative Operations (System Manager).

8. Work Measurement System; DOT/FRA—Director, Office of Management Systems.

*c. Places: Regional Offices as follows:*

Region 2, Federal Railroad Administration, Philadelphia, Pa. 19106.

Region 3, Federal Railroad Administration, College Park, Ga. 30337.

Region 4, Federal Railroad Administration, Chicago, Illinois 60605.

Region 5, Federal Railroad Administration, Ft. Worth, Texas 76102.

Region 6, Federal railroad Administration, Portland, Oregon 97204.

Region 7, Federal Railroad Administration, San Francisco, California 94102.

Region 8, Federal Railroad Administration, Kansas City, Missouri 64106.

Hours: 9:00 a.m.—4:00 p.m.

*Systems of Records and Responsible Systems Managers at each Region:*

Regional Personnel Convenience Files; DOT/FRA—Regional Directors (Systems Manager).

*d. Place: Transportation Test Center (TTC) Pueblo, Colorado 81001. Hours: 9:00 a.m.—4:00 p.m.*

*System of Records and Responsible System Manager:*

Transportation Test Center Employee Service Record File—Director, TTC (System Manager).

*3. Access to Records.*

a. Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such a record, shall make his request in writing to the appropriate official listed in Section 2.3 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

b. FRA allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system managers specified in 2.3A-D.

c. The system managers provide written acknowledgment of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the ten-day working period, no acknowledgment is required.

d. If FRA agrees with an individual's request to amend the person's record, the following steps are taken:

1. Advises the individual in writing;
2. Corrects the record accordingly; and
3. If a prior disclosure has been made, advises all previous recipients of the record of the correction and its substance.

e. If FRA, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it, FRA:

1. Advises the individual of refusal and the reasons for it;
2. Informs the individual of procedures to request a further review;

f. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. The request for a review should be

addressed to: Attn: Privacy Act of 1974, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590.

g. If after this review FRA refuses to amend the record as the individual requested, FRA advises the individual:

1. Of refusal and the reasons for it;
2. Of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the Administration;

3. The procedures for filing the statement of disagreement;

4. That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed;

5. Of the individual's right to seek judicial review of the refusal to amend a record.

h. The final FRA determination on the individual's request is concluded within thirty (30) working days unless the FRA Administrator determines that a fair and equitable review cannot be completed in that time-frame. If additional time is required, the individual is informed in writing of reasons for the delay and of the estimated date on which the review is expected to be completed.

*4. Procedures for Establishing Identity of Individual Making a Request:*

a. Disclosure of personnel records requires that the individual produce an identification card; employee identification, annuitant identification, Medicare cards, or driver's license are examples. For records disclosed by mail, FRA requires identifying information to locate the record, i.e., employee identification number, name, date of birth or social security number. A comparison of the signature of the requester and those in the record is used to determine identity.

b. If an individual can provide no suitable documents for identification, FRA requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000 under 5 U.S.C. 552a(b)(3).

APPENDIX G

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

1. *Introduction.* This appendix, with respect to the National Highway Traffic Safety Administration:

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the National Highway Traffic Safety Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Records of the National Highway Traffic Safety Administration, hereafter referred to as NHTSA, are located at NHTSA headquarters, Washington, D.C., and at regional office locations, both described below. Records created, collected, maintained and used in various demonstration and research projects as contract requirements of NHTSA are located at various

points in the several States and the Commonwealth of Puerto Rico.

a. All NHTSA headquarters offices are open from 7:45 a.m. to 4:15 p.m., each day except Saturdays, Sundays, and Federal legal holidays. The main headquarters office is located at 400 Seventh Street SW., Washington, D.C. 20590. The Office of Vehicle Safety Compliance, Enforcement Programs; the National Driver Register, Traffic Safety Programs, and the Office of Research and Development are located at the Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590.

b. NHTSA Regional offices are located at the following addresses and are open during the indicated hours each day, except for Saturdays, Sundays, and Federal legal holidays:

(1) Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 55 Broadway, Cambridge, Massachusetts 02142 (7:45 a.m.—4:15 p.m.).

(2) Region II (New Jersey, New York, Puerto Rico, Virgin Island), 222 Mamaronck Avenue (Room 204), White Plains, New York 10601 (7:45 a.m.—4:15 p.m.).

(3) Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Airport Plaza Building, 6701 Elkridge Landing Road, Linthicum, Maryland 21090 (8 a.m.—4:30 p.m.).

(4) Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Suite 501, 1720 Peachtree Road NW., Atlanta, Georgia 30309 (7:45 a.m.—4:15 p.m.).

(5) Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Suite 214, Executive Plaza, 1010 Dixie Highway, Chicago Heights, Illinois 60411 (8 a.m.—4:30 p.m.).

(6) Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 819 Taylor Street, Room 11A26 Fort Worth, Texas 76102 (8 a.m.—4:30 p.m.).

(7) Region VII (Iowa, Kansas, Missouri, Nebraska), 6301 Rockhill Road, Kansas City, Missouri 64111 (7:45 a.m.—4:15 p.m.).

(8) Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 330 South Garrison Street, Lakewood, Colorado 80226 (7:45 a.m.—4:15 p.m.).

(9) Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Suite 610, Two Embarcadero Center, San Francisco, California 94111 (7:45 a.m.—4:15 p.m.).

(10) Region X (Alaska, Idaho, Oregon, Washington), 3140 Federal Building, 915 Second Avenue, Seattle, Washington 98174 (7:45 a.m.—4:15 p.m.).

c. NHTSA demonstration and research project records may be created, collected, maintained, and used for the purposes of NHTSA contract requirements. These records are maintained at various points in the several States and the Commonwealth of Puerto Rico. Since these project contractors only act as agents for NHTSA, and to prevent unauthorized disclosure of information that may be subject to the provisions of the Privacy Act of 1974, management of the systems has been retained by appropriate officials of NHTSA. Access to the published systems may be obtained by corresponding with the systems manager indicated for the system of records found in the citations in paragraph 3 of this appendix. Appropriate personal identification must be furnished in accordance with paragraph 4. These officials should be notified of any inaccuracy of the record and, also, are responsible for con-

sidering requests for correction or alternation of the record.

3. *Systems of Records.* A list of NHTSA systems of records pertaining to the Privacy Act indicating the geographic locations and the responsible systems managers has been published in the FEDERAL REGISTER and appears as follows: Vol. 42, No. 181, September 19, 1977, beginning on page 47099.

4. *Access to Records.*

a. Individuals desiring to determine whether records pertaining to them are contained in systems of records covered by this Appendix or desiring access to records covered by this Appendix, or to obtain copies of such records, shall make written requests providing appropriate identification of the system and proof of their identity in the same manner as former employees described in 4.c below. When an individual is not capable of personally providing the required information, a second party request may be honored if a duly attested authorization, power of attorney, or appropriate court order is submitted with the request.

b. Decision to release or deny requested records is made by the system manager, identified in the citations of paragraph 3 of this Appendix, within ten working days of the receipt of the request. A person seeking review of a denial of the disclosure of a record may appeal to the NHTSA Associate Administrator for Administration, 400 Seventh Street SW., Washington, D.C. 20590, preferably within 180 days of the initial denial. Decision on the request for review is made in writing within 30 working days from the receipt of the request for reconsideration of disclosure. For additional details see sections 10.45 and 10.51 of these rules.

c. Employees and former employees of NHTSA may obtain access to and consideration of the amendment of their records by providing a current Department of Transportation (DOT) identification card (Form D-1600.1.9), a DOT retired employee identification card (Form D-1600.2), Medicare card, attested signed request, or such other identification that may prove the validity of their claims.

d. Since nearly all NHTSA systems of records are maintained on electronic data processing equipment, it may require up to 48 hours to obtain individual records due to computer scheduling requirements. It is in the interest of the individual, therefore, to request information in writing rather than in person.

5. *Requests to Correct or Alter Records.*

a. Individuals may request correction or alternative of records pertaining to them by addressing such requests to the system managers or the NHTSA Privacy Act Coordinator, the addresses of whom are contained in the citation of paragraph 3 of this Appendix.

b. Since the records of the National Driver Register merely contain partial records of the States' motor vehicle records, they are susceptible to correction or alternation only to the extent that such records are at variance with the State records. Persons seeking to correct their State motor vehicle records should address requests to their respective States' motor vehicle licensing authorities.

c. The system manager, in accordance with 49 CFR 10.41, provides written acknowledgment of the receipt of a request to amend a record to the individual within ten working days. If the request can be reviewed, processed, and the individual notified of compliance or denial of the request

within the ten working day period, no acknowledgment is required.

d. When decision is made by the system manager to comply with an individual's request to amend the person's record, the following steps are taken within 30 working days from the date of acknowledgment of the request:

(1) Advises the individual of the decision in writing;

(2) Corrects the record accordingly; and

(3) Advises all previous recipients of the record, if an accounting of disclosure has been made, of the correction.

e. When decision is made, after initial review by the system manager of a request to amend a personal record, to disagree with all or any portion of the requested amendment, the following steps are taken within 30 working days from the date of acknowledgment of the request.

(1) Advises the individual of refusal and the reasons therefore; and

(2) Informs the individual of the procedures for appeal to the NHTSA Administrator for further review.

f. If the individual disagrees with the initial determination of the system manager, the individual may file a request for further review of that determination. This request for review should be addressed to the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

g. If after review the Administrator agrees to the amendment of the record, the procedures of subparagraph 5.d of this Appendix are followed. If amendment of the record is refused as requested by the individual, the individual is advised:

(1) Of the refusal and reasons therefore, and the names and titles of positions of each person responsible for the determination;

(2) Of the individual's right to file, together with the appropriate procedures, a concise statement of the reasons for disagreeing with the decision of the Administrator;

(3) Of the fact that the statement which is filed by the requester is made available to prior recipients and anyone to whom the record is subsequently disclosed; and

(4) Of the individual's right to seek judicial review of the administrator's refusal to amend a record.

h. The final determination to refuse an individual's request for amendment of a record is concluded within 30 working days after the receipt of the appeal to the Administrator. If a fair and equitable review cannot be completed by the stipulated time, the Administrator informs the individual in writing of the reasons for delay and provides an estimated date on which completion of the review is expected.

6. *Personal Identification Requirements.* The NHTSA does not demand any personal identification beyond that specified by § 10.35 of this part.

APPENDIX H

URBAN MASS TRANSPORTATION ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Urban Mass Transportation Administration (UMTA):

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Urban Mass Transportation Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 1035 of these regulations.

2. *Availability for Inspection and Copying.*

In accordance with Title 49, Part 10, Subpart A, Section 10.1, dealing with the maintenance of and access to records pertaining to individuals under the Privacy Act of 1974 (Pub. L. 93-579), the following places and times at which individual's records are available for inspection and copying, and the titles of the officials who are responsible system managers are submitted:

a. Regional Offices as follows:

(1) Region I, Urban Mass Transportation Administration, Cambridge, MA 02142

(2) Region II, Urban Mass Transportation Administration, New York, NY 10007;

(3) Region III, Urban Mass Transportation Administration, Philadelphia, PA 19106;

(4) Region IV, Urban Mass Transportation Administration, Atlanta, GA 30309;

(5) Region V, Urban Mass Transportation Administration, Chicago, IL 60606;

(6) Region VI, Urban Mass Transportation Administration, Fort Worth, TX 76102;

(7) Region VII, Urban Mass Transportation Administration, Kansas City, MO 64131;

(8) Region VIII, Urban Mass Transportation Administration, Denver, CO 80202;

(9) Region IX, Urban Mass Transportation Administration, San Francisco, CA 94111; and

(10) Region X, Urban Mass Transportation Administration, Seattle, WA 98174.

b. Hours: 8:30 A.M. to 5 P.M., local time.

c. System of Records: Regional Personnel Convenience Files at each location.

d. System Managers: Regional Directors or Chiefs are System Managers.

e. Headquarters: Urban Mass Transportation Administration, Washington Headquarters, Washington, D.C. 20590; Hours: 8:30 A.M. to 5 P.M.

3. *Systems of Records.*

a. Confidential Statement of Employment and Financial Interest—DOT/UMTA, Chief Counsel, Office of the Chief Counsel;

b. Occupational Safety and Health Reporting System, Director of Personnel Division;

c. Litigation and Claims File—Chief Counsel, Office of Chief Counsel;

d. Grant Applicants List, Director, Grant Management Division;

e. Contract Information System, Director, Procurement Division;

f. Unsolicited Research and Development Grants, Director, Grant Management Division;

g. Complaints of Discrimination, Director, Office of Civil Rights;

h. Employee Travel Vouchers, Chief, Accounting Branch;

i. Accounts Receivable, Chief, Accounting Branch;

j. Equal Employment Opportunity, Minority/Female Statistical Reporting System, Director, Office of Civil Rights;

k. Minority Recruitment File, Director, Office of Civil Rights;

l. UMTA Sponsored Reports—Authors file, Director, Office of Transit Management;

m. Blood Donors File, Director, Administrative Services Division;

n. Approved Grants, Director, Administrative Services Division;

o. Closed-Out Grants, Director, Administrative Services Division; and

p. Docket DOT/UMTA, Chief Counsel, Office of Chief Counsel.

4. *Access to Records.* Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such a record, shall make request in writing to the official specified in paragraph 1 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

5. *Requests to Correct or Alter Records.*

a. The Administration allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system manager specified in paragraph 1.

b. The system manager provides a written acknowledgment of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed and processed and the individual notified of compliance or denial within the ten-day working period, no separate acknowledgment is required.

c. If UMTA agrees with an individual's request to amend the person's record, the following steps are taken:

- (1) Advises the individual in writing;
- (2) Corrects the record accordingly; and
- (3) Advises all previous recipients of the record which was corrected of the correction and its substance.

d. If UMTA, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it, it:

- (1) Advises the individual of refusal and the reasons for it; and
- (2) Informs the individual of procedures to request a further review.

e. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. This request for a review should be addressed to: Privacy Act Officer, UAD-60, 400 Seventh Street SW., Washington, D.C. 20590.

f. If after this review UMTA refuses to amend the record as the individual requested, UMTA advises the individual:

- (1) Of refusal and the reasons for it;
- (2) Of the individual's right to file a concise statement of the reasons for disagreeing with the decision;
- (3) The procedures for filing the statement of disagreement;
- (4) That the statement which is filed in made available to any one to whom the record is subsequently disclosed; and
- (5) Of the individual's right to seek judicial review of the Administration's refusal to amend a record.

g. The final determination on the individual's request is concluded within 30 working days unless the UMTA Administrator determines that a fair and equitable review cannot be completed in that period. If additional time is required, the individual is informed in writing of reasons for the delay and of the estimated date on which the review is expected to be completed.

h. For personnel-related records final Civil Service Commission determination may apply within 30 working days following the procedures explained above.

6. *Personal Identification Requirements.*

a. Disclosure of personal records requires that the individual produce an identification card; employee identification, annuitant identification, Medicare card, and driver's license are examples. For records disclosed by mail, UMTA requires identifying information to locate the record, i.e., employee identification number, name, date of birth, or social security number. A comparison of the signature of the requester and those in the record is used to determine identity.

b. If an individual can provide no suitable documents for identification, UMTA requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretences is punishable by a fine of up to \$5,000 under citation 3(i)3 of the Privacy Act.

APPENDIX I

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

1. *Introduction.* This Appendix, with respect to the Saint Lawrence Seaway Development Corporation:

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.*

a. Place and time for records inspection and copying: Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662; Massena Office: 9:00 a.m.-4:00 p.m.

b. Systems of records located at each facility: *Administration Building:* Claimants under Federal Tort Claims Act, Data Automation Program Records, Employees' Compensation Records, Emergency Operating Records (Vital Records).

c. Official having authority to deny requests for disclosure of records under this part:

Resident Manager, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

3. *Systems of Records:* A complete listing of the systems of records maintained by the Saint Lawrence Seaway Development Corporation has been published in the FEDERAL REGISTER as follows: September 19, 1977, pages 47138-47140.

4. *Access to Records:* Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such record, shall make request in writing to the address provided in Section 2 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

5. *Requests to Correct or Alter a Record:*

a. Any person who desires to have his or her own record corrected shall submit a written request.

b. Only the individual to whom the record pertains may make the written request and it shall be signed by that person.

c. Request should state the reasons the record should be corrected and that the request is made pursuant to the Privacy Act; alternatively the requester may mark "Privacy Act Amendment Request" on the envelope in which the request is submitted.

d. Requests for correction of records shall be submitted to the Personnel Officer, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

6. *Personal Identification Requirements:* Refer to subsection 10.35 for normal requirements. In those cases involving mail requests for sensitive records, i.e.—medical records, the requester's signature shall be notarized.

APPENDIX J

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

The Research and Special Programs Administration (RSPA) will operate under the general rules of Part 10 (49 CFR Part 10) until specific procedures are deemed necessary for the RSPA.

[FR Doc. 78-33780 Filed 12-1-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[49 CFR Parts 571 and 572]

[Docket No. 74-9, Notice 5; Docket No. 78-9, Notice 3]

CHILD RESTRAINT SYSTEMS

Anthropomorphic Test Dummies Representing 3-Year-Old Children

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the time for comments on the portions of the notice of proposed rulemaking on Federal Motor Vehicle Safety Standard No. 213-80 involving testing with anthropomorphic test dummies. The comment period is also extended for the notices of proposed rulemaking on Part 572, Anthropomorphic Test Dummies, Subpart C, 3-Year-Old Child, proposed in May 1978 and amended in November 1978.

DATES: The comment period for the notices on Part 572, Anthropomorphic Test Dummies, and on the portions of the notice of FMVSS 213-80, Child Restraint Systems, involving testing with anthropomorphic test dummies is extended until January 5, 1979. Comments on the remaining portions of

the notice on FMVSS 213-80 are still due December 1, 1978.

ADDRESS: Comments should refer to the docket numbers and be submitted to Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-2264.

**SUPPLEMENTARY INFORMATION:**

A notice of proposed rulemaking to establish a new Federal Motor Vehicle Safety Standard No. 213-80, Child Restraint Systems, was published on May 18, 1978 (43 FR 21470). The closing date for comments on the notice was December 1, 1978. In order to do research on the proposed requirements, the Juvenile Products Manufacturers Association on August 1 requested an extension of time of 180 days to submit comments on the portions of the notice involving testing with anthropomorphic test dummies. The agency initially denied the petition but invited the submission of further justification. The petitioner submitted additional information in a November 27, 1978, letter. Based on that letter and other information concerning the availability of testing facilities and anthropomorphic test dummies to do

the necessary testing, the agency has concluded that an extension of time to comment should be granted. However, only a short extension is appropriate and in the public interest. Further, the extension should be limited to the portions of the proposed standard involving testing with the anthropomorphic test dummy. Accordingly, the deadline for commenting on those portions is extended until January 5, 1979. Comments on the remaining portions of the notice of proposed rulemaking must still be submitted by the original comment closing date of December 1, 1978.

Because of the interrelationship between the portions of the notice of proposed rulemaking on FMVSS 213-80 involving testing with anthropomorphic test dummies and the notices of proposed rulemaking on Part 572, Anthropomorphic Test Dummies, Part C, 3-Year-Old Child, (43 FR 21490; 43 FR 53478), the agency has decided to extend the time to comment on those notices until January 5, 1979.

The principal authors of this notice are Mr. Vladislav Radovich, Office of Vehicle Safety Standards, and Mr. Stephen Oesch, Office of the Chief Counsel.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on November 30, 1978.

MICHAEL M. FINKELSTEIN,  
*Associate Administrator  
for Rulemaking.*

[FR Doc. 78-33915 Filed 11-30-78; 4:38 pm]

# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

## DEPARTMENT OF AGRICULTURE

Forest Service

### AMAX MINING CO., MOUNT EMMONS PROJECT

Gunnison National Forest, Gunnison County, Colo.

#### Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Statement upon the submission of a notice of intent or proposal from AMAX, Inc., for development of its proposed Mt. Emmons molybdenum mining and milling project in the Gunnison National Forest, Gunnison County, Colorado. Company studies indicate mining and milling will take place over an estimated period of 25 years. The mill will have a capacity of about 30,000 tons per day. The waste material (tailings) from the mill will be produced at a rate of about 30,000 tons per day. The statement will address alternative mine access and mill/tailings site locations and their environmental effects.

Initial issues and concerns have been identified through the Colorado Review Process (CRP). The CRP is being used by representatives of the Gunnison National Forest, State of Colorado and Gunnison County to coordinate the interjurisdictional review of the potential environmental effects of this major development proposal. Meetings of these representatives (the CRP Group) so far have identified many issues and concerns related to the project. These issues and concerns may change or be modified as the evaluation proceeds.

Initial public issues and management concerns identified include: land subsidence, air and water quality, tailings and waste rock disposal, transportation, wildlife and fisheries, reclamation, recreation, population growth, community services impacts, county land use changes, and community changes.

The Forest Supervisor is the responsible official for the Environmental Statement.

It is anticipated the Environmental Statement will require about 18 months following receipt of the notice

of intent or proposal from AMAX, Inc., as described in the first paragraph.

Comments on this Notice of Intent to Prepare an Environmental Statement should be sent to the Forest Supervisor, Gunnison National Forest, P.O. Box 138, Delta, Colorado 81416.

JIMMY R. WILKINS,  
Forest Supervisor.

NOVEMBER 27, 1978.

[FR Doc. 78-33761 Filed 12-1-78; 8:45 am]

[3510-25-M]

## DEPARTMENT OF COMMERCE

Industry and Trade Administration

### TENNESSEE UNIVERSITY

#### WITHDRAWAL OF APPLICATION FOR DUTY-FREE ENTRY OF SCIENTIFIC ARTICLE

The University of Tennessee has withdrawn Docket Number 78-00407 an application for duty-free entry of an ultramicrotome.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Program Staff.

[FR Doc. 78-33736 Filed 12-1-78; 8:45 am]

[3510-25-M]

#### APPLICATIONS FOR DUTY-FREE ENTRY OF SCIENTIFIC ARTICLES

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of

Commerce, Washington, D.C. 20230, by December 26, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

Docket No.: 79-00038. Applicant: Biomedical Engineering and Instrumentation Branch DRS, National Institutes of Health, Bldg. 13, Room 3W13, 9000 Rockville Pike, Bethesda, MD 20014. Article: Electron Microscope, Model H-700 and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used to analyze the ultrastructure and composition of a wide variety of biological specimens. In addition, the article will be equipped with X-ray and electron energy-less spectrometers, whose data output will assist in the exploration of the structure-function relationships in the tissues examined. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00039. Applicant: University of Rochester, University of Rochester Medical Center, 601 Elmwood Avenue, Rochester, New York 14642. Article: Sheath Flow Chamber for Phywe ICP 22. Manufacturer: Phywe AG, West Germany. Intended use of article: The article is intended to be used for the study of cytochemistry of human and other animal cells and chromosomes to develop new techniques for the recognition of abnormal or unusual cells or chromosomes by virtue of their cytochemical properties. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00040. Applicant: Kansas State University, College of Veterinary Medicine, Manhattan, KS 66506. Article: Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used to help elucidate the pathogenesis and pathologic changes in various diseases of domestic animals. The experiments to be conducted will include daily examination of specimens from animals for diagnostic purposes and planned experiments arising from di-

agnostic cases of economic significance. The objectives of the investigations are to develop a better understanding of the structural and functional changes with cells that result in malfunction and disease. In addition, the article will also be used in the courses: Topics in Pathology, Advanced Topics in Pathology, and Advanced Diagnostic Pathology to give the pathologists-in-training in the use of electron microscope and in the recognition of ultrastructural disease processes. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00041. Applicant: Louisiana State University, Civil Engineering Department, Baton Rouge, LA 70803. Article: Swelling Test Apparatus. Manufacturer: Geonor A.S., Norway. Intend use of article: The article is intended to be used for research in an attempt to satisfy the following general goals:

(1) Identify the swell mechanism of Louisiana soils,

(2) Estimate the magnitude of swell potential of various soil types in Louisiana,

(3) Focus on developing a field method to identify swelling soils.

Specific steps that will be followed in order to satisfy the objectives of the study are:

1. Comprehensive literature study to isolate completed research pertinent to Louisiana soils.

2. An investigation of the physicochemical and mineralogical properties of typical swelling soils in Louisiana.

3. The development of a field test method compatible and correctable with the laboratory test methods for identifying swelling potential.

4. The field verification of test methods in known swelling soil deposits.

5. The development of a system of mapping the estimated potential/actual swell of the swell-susceptible soils in the State of Louisiana.

6. The experimental mapping of selected areas of Louisiana identifying swelling soils.

7. Estimate the potential damage risk associated with the swelling soils in the mapped areas.

8. Identify, develop and test methods for the improvement of swelling soils, such as lime and lime-fly-ash stabilization (which will be abundantly available in Louisiana in the near future).

Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00042. Applicant: East Tennessee State University College of Medicine, P.O. Box 19540A, State University Station, Johnson City, Tennessee 37601. Article: Electron Microscope, Model EM 201C and Plate Camera with accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intend-

ed use of article: The article is intended to be used for studies of tissues from experimental animals used in a model of experimental endometrial and bladder cancer. The ultrastructure of organelles of target tissue is altered by the administration of chemical carcinogens, sex hormones, and castration. These alterations will be studied. The article will also be used in a Sophomore Pathology course designed to present a comprehensive survey of general and organ system pathology to familiarize the students with medical nomenclature, basic concepts of etiology and pathogenesis and sufficient information about disease states so that they can perform up to their capabilities on the National Board examinations and benefit maximally from their subsequent clinical clerkships. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00043. Applicant: University of Mississippi Medical Center, 2500 North State Street, Jackson, MS 39216. Article: Electron Microscope, Model EM 10A with Goniometer and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in part for a combined ultrastructural, immunocytochemical and biochemical investigation of the role of the large dense core noradrenergic vesicles of the peripheral sympathetic nervous system. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00044. Applicant: University of Delaware, Newark, Delaware 19711. Article: Specific Heat Flow Calorimeter and accessories. Manufacturer: Sodev Inc., Canada. Intended use of article: The article is intended to be used for the measurement of the specific heats of dilute solutions of various substances in aqueous solutions in aqueous solution. Solutes include alcohols, amides, acids, etc. which are needed in connection with the study of functional group interactions in dilute aqueous solutions. It will be necessary to measure specific heat differences between water and 0.1 mole kg<sup>-1</sup> solutions to get apparent molal heat capacities of the solutes. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00046. Applicant: Trustees of Columbia University in the City of New York, 315 Havemeyer Hall, Columbia University, New York, New York 10027. Article: TEA CO<sub>2</sub> laser Model DD-250 and accessories. Manufacturer: Gen Tec Inc., Canada. Intended use of article: The article is intended to be used for the study of multiphoton dissociation properties of CF<sub>3</sub>I, CF<sub>3</sub>Br, and other similar gases. Investigations will be conducted to determine the usefulness of infrared

lasers as a source of catalysis in chemical reactions. The article will also be used in independent scientific research projects by graduate students in the area of multiphoton infrared photochemistry. Application received by Commissioner of Customs: November 8, 1978.

Docket No.: 79-00047. Applicant: National Institutes of Health, 9000 Rockville Pike, Building 36, Rm. 4B17, Bethesda, Maryland 20014. Article: LKB 2128-010/Ultratome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of myelinated tracts or nerves obtained surgically which may be chemically fixed and embedded or frozen before sectioning. Thin or semi-thin sections of nervous tissue will be studied by light and electron microscopy. The features characteristic of various types of myelin breakdown will be identified and described in research reports that will be published. Additional objectives include the localization of myelin constituents visualized electron microscopically in thin sections after using specific immunocytochemical staining procedures. Application received by Commissioner of Customs: November 8, 1978.

Docket No.: 79-00048. Applicant: National Institute of Environmental Health Science, Laboratory of Pulmonary Function and Toxicology, P.O. Box 12233, Research Triangle Park, NC 27709. Article: LKB 2088 Ultratome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for electron microscopic studies of cells and tissues from normal and diseased lungs during experiments on the pathobiology of pulmonary disease. Application received by Commissioner of Customs: November 8, 1978.

Docket No.: 79-00049. Applicant: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond, CA 94804. Article: Kratos MS-25S Gas Chromatograph/Mass Spectrometer System and accessories. Manufacturer: Kratos/AEI, United Kingdom. Intended use of article: The article is intended to be used by faculty, graduate students and Pharm. D. candidates to obtain: (1) High quality, high sensitivity mass spectra on organic substances occurring primarily as complex mixtures isolated from biological matrices; and (2) ultra high sensitivity measurements of the quantitative occurrence of specific organic and chemotherapeutic agents or mixtures thereof and fractions isolated from physiological fluids, tissue and cell cultures, biopsy materials, etc. as well as toxic substances from environmental samples.

Experiments in biomedical and pharmaceutical research and related environmental toxicology will support multicomponent qualitative analytic studies, and quantitative studies will be carried out on trace amounts of substances isolated from complex chemical and biological milieu using stable isotopically labelled synthetic specific analogs. Studies of the products of chemical reactions aimed at developing a knowledge of reaction mechanisms will also be carried out. The article will also be used for educational purposes in the courses: Organic Chemistry Laboratory (Chemistry 117), Qualitative Organic Analysis (Chemistry 165), and Mass Spectrometer (a graduate course in the Chemistry 200 series). The general objective of these courses is to train students in the analytical methodology for identification and qualitative structure determination of unknowns and knowns in complex mixtures isolated from biological and medical milieu. Application received by Commissioner of Customs: November 9, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Staff.

[FR Doc. 78-33738 Filed 12-1-78; 8:45 am]

### [3510-25-M]

#### TUFTS UNIVERSITY

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00300. Applicant: Tufts University, Lane Hall, Medford, Mass. 02155. Article: PS-400 Coherent NMR Pulse Spectrometer and Accessories. Manufacturer: Spin-Tech Electronics Ltd., Canada. Intended use of article: The article is intended to be used to study liquid crystals, soaps and lipids in the liquid crystals, and solid state. Their dynamics and ordering properties such as orientation, lateral and rotational diffusion, molecular conformational equilibrium, etc. will be studied by a variety of multiple-pulse nuclear magnetic resonance ex-

periments, including spin-lattices relaxation ( $T_1$ ) of both protons and deuterons, relaxation in the rotating frame ( $T_{1\rho}$  or spin-locking), second moment ( $M_2$ ) by solid echo technique and Jeener-Brookaert pulse sequence. The article will also be used in the following courses:

Nuclear Magnetic Resonance—to teach the principle and application of NMR to physical chemistry and biophysical chemistry students.

Research (course numbers 91, 92, 297, 298)—by graduate students and advanced undergraduate students engaged in the above research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the multiple pulse capability to perform Jeener-Brookaert ( $T_{1\rho}$ ) pulse sequence experiments. The National Bureau of Standards advises in its memorandum dated October 20, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Staff.

[FR Doc. 78-33737 Filed 12-1-78; 8:45 am]

### [3510-22-M]

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE, SALMON ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM, AND GROUND FISH ADVISORY SUBPANEL

##### Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting with Partially Closed Session.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development team, and Groundfish Advisory Subpanel established under Section 302(a), (g) (1) and (2) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will conduct a series of meetings.

DATES: The Council meetings will convene at 8:00 a.m. on Wednesday, December 6, 1978, and at 8:00 a.m. on Thursday, December 7, 1978, adjourning at 6:00 p.m. both days. The Scientific and Statistical Committee meetings will convene at 9:00 a.m. on Tuesday, December 5, 1978, and at 8:00 a.m. on Wednesday, December 6, 1978, adjourning at 5:00 p.m. both days. The Salmon Advisory Subpanel and Plan Development team meetings will convene at 8:00 a.m. on Tuesday, December 5, 1978, and at 8:00 a.m. on Wednesday, December 6, 1978, adjourning at approximately 5:00 p.m. on both days. The Groundfish Advisory Subpanel meetings will convene at 1:00 p.m. on Tuesday, December 5, 1978, and at 8:00 a.m. on Wednesday, December 6, 1978, adjourning at approximately 5:00 p.m. on both days.

ADDRESS: The Council, Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development Team, and Groundfish Advisory Subpanel meetings will take place at the Portland Hilton, 921 S.W. 6th Avenue, Portland, Oregon.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, telephone: (503) 221-6352.

##### PROPOSED AGENDA

The Groundfish Advisory Subpanel agenda is as follows:

DECEMBER 5-6, 1978

(1) Consideration of second draft of Groundfish Fishery Management Plan. The Salmon Advisory Subpanel and Plan Development Team agenda is as follows:

DECEMBER 5-6, 1978

(1) Consideration of progress report on Comprehensive Salmon Management Plan.

The Scientific and Statistical Committee agenda is as follows:

DECEMBER 5-6, 1978

(1) Development of fishery management plans: Comprehensive Salmon; Ocean Salmon for 1979; Squid; Groundfish; Billfish; Dungeness Crab; Jack Mackerel and Pink Shrimp. (2)

Operational and procedural matters of the Council, including advisory panel and management plan development team activities; (3) Public comment period beginning at 3:30 p.m. on December 5, and (4) Other committee business.

The Council agenda is as follows:

DECEMBER 6, 1978

(1) Closed 2-hour session (8:00 a.m. to 10:00 a.m.) to discuss classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Personnel matters will also be discussed: (1) Selection of Jack Mackerel Advisors; and (2) Selection of Pink Shrimp Advisors. (2) Consideration of a progress report on the Comprehensive Salmon Management Plan and the first draft of the Jack Mackerel Fishery Management Plan; (3) Consideration of reports from ad hoc committees; (4) Review of Communications from other agencies and organizations; and (5) Public comment period beginning at 4:00 p.m.

DECEMBER 7, 1978

(1) Consideration of the second draft of the Groundfish Fishery Management Plan; (2) Operational and procedural matters of the Council, including its staff, advisory panels, and committee activities; (3) Consideration of reports from ad hoc committees; and (4) Review of communication from other agencies and organizations.

The Council, Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development Team, and Groundfish Advisory Subpanel expect to address each of the items of their respective agendas above. Time restraints may require that some items be deferred to a later meeting. In addition, there is a possibility that late items of importance may be added to the agenda after the appearance of this announcement. Interested parties should contact the Executive Director as mentioned above to obtain a more detailed agenda.

The Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development Team, and Groundfish Advisory Subpanel meetings will be open to the public. The council meeting will also be open to the public except for the first agenda item on the first day. The closed session of the Council meeting is planned for the early morning of December 6, 1978, from 8:00 a.m. through 10:00 a.m. to hear and discuss Department of State security classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Only those Council members, SSC members, and related staff members having security

clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on November 30, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c) (1) and (6) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.) The Notice of Public Meeting with a Partially Closed Session does not permit members of the public sector 15 days notification, because of an administrative delay in processing a formal Notice of Determination.

Dated: November 29, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

[FR Doc. 78-33841 Filed 12-1-78; 8:45 am]

[6355-01-M]

**CONSUMER PRODUCT SAFETY  
COMMISSION**

**PRODUCT SAFETY ADVISORY COUNCIL**

**Meeting**

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Monday, December 18, 1978, from 9 a.m. to 5 p.m., and Tuesday, December 19, 1978, from 8:30 a.m. to 3:45 p.m. The meeting will be held at 1111 18th Street, NW., Washington, D.C. 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT:

Sadye Dunn, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, 202-634-7700.

SUPPLEMENTAL INFORMATION: The Product Safety Advisory Council was established by section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety

rule or taking other action under the Act. Topics tentatively scheduled for discussion on Monday, December 18, include (1) voluntary vs. mandatory standards; (2) performance vs. design standards; and (3) cost/benefit in health and safety matters, with discussion of these policy issues focused on the pending questions of an upholstered furniture flammability standard. Other topics to be discussed on Tuesday, December 17, include CPSC's Voluntary Standards Policy; Commission participation in the development of a voluntary standard to reduce the risk of injury associated with chain saw kickback; and implementation of CPSC's Public Participation Program. The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by December 11, 1978. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: November 28, 1978.

SADYE E. DUNN,  
Secretary, Consumer Product  
Safety Commission.

[FR Doc. 78-33735 Filed 12-1-78; 8:45 am]

[3810-70-M]

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**DOD ADVISORY GROUP OF ELECTRON  
DEVICES**

**Meeting**

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at the Institute of Defense Analyses, 400 Army Navy Drive, Arlington, VA 22202, on 18-19 January 1979.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with indus-

try, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically, Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Head-  
quarters Service, Department  
of Defense.

NOVEMBER 28, 1978.

[FR Doc. 78-33750 Filed 12-1-78; 8:45 am]

[1505-01-M]

#### PRIVACY ACT ISSUANCES

##### Notice of Incorporation by Reference

##### Correction

In FR Doc. 78-25819 appearing at page 42373 as Part II of the issue for Wednesday, September 20, 1978, make the following correction:

On page 42507 delete the paragraphs under the heading and sentence, "Systems exempted from certain provisions of the act: None".

[6450-01-M]

#### DEPARTMENT OF ENERGY

##### Economic Regulatory Administration

#### MAJOR FUEL BURNING INSTALLATION/ POWERPLANT PETITION FOR EXISTING FACILITY CLASSIFICATION

##### Request for Public Comment

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Request for Public Comment on ERA-300A, Powerplant Petition for Existing Facility Classification and ERA-300B, Major Fuel Burning Installation Petition for Existing Facility Classification.

SUMMARY: To implement the Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (43 FR 54911, November 22, 1978, Part IV), the Economic Regulatory Administration (ERA) of the Department of Energy

(DOE) has developed the ERA-300A and ERA-300B. Potential Respondents, interested parties and members of the public are invited to submit comments on the proposed Forms ERA-300A and ERA-300B, which are reproduced herein.

EFFECTIVE DATE: Comments received no later than January 15, 1979, will be given full consideration.

#### FOR FURTHER INFORMATION CONTACT:

Alfred C. Metz, Department of Energy, Economic Regulatory Administration, Office of Fuels Regulation, Room 7219C, 2000 M Street NW., Washington, D.C. 20461, 202-254-5436.

Written comments should be submitted in triplicate to:

Robert C. Gillette, Department of Energy, Economic Regulatory Administration, ERA Docket ERA-R-78-21, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

#### SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Comments invited in key issues.
- III. Confidentiality.
- IV. Clarity of instructions and definitions.

#### I. BACKGROUND

Title II of the Act prohibits "new" powerplants and installations from using oil and natural gas, unless granted an exemption by DOE, and prohibits "new" powerplants from constructing without alternate fuel capability. The Act classifies all powerplants and installations which began construction or acquisition after April 20, 1977, as "new".

However, the Act also permits ERA to classify certain installations for which construction or acquisition began between April 20, 1977, and November 9, 1978 (enactment date), as "existing" and, therefore, subject to the provisions of Title III rather than those of Title II of the Act.

The Act classifies transitional facilities as "new" units unless the petitioner can demonstrate that such a classification would result in a substantial financial penalty for an installation or powerplant, or would result in a significant operational detriment to an installation or in an impairment of reliability for a powerplant.

In order for DOE to classify a transitional facility as an existing facility, a Powerplant Petition for Existing Facility Classification (ERA-300A) of Major Fuel Burning Installation Petition for Existing Classification (ERA-300B) must be filed not later than 14 days following the effective date of the Final Transitional Facility Regulations.

Under the Federal Reports Act, the ERA-300A and 300B must be approved

by the Office of Management and Budget (OMB). As a part of the approval process, ERA hereby solicits comments concerning these reporting documents. An advance copy of the forms will be forwarded to OMB concurrently with the publication of this FEDERAL REGISTER notice. Comments submitted to ERA concerning the draft reporting forms will be forwarded to OMB for its consideration in granting an approval and will be considered by ERA.

#### II. COMMENTS INVITED ON KEY ISSUES

Review comments should address the following areas of concern:

- Is the overall layout and general format of the forms easy to understand and follow?

- How many person-hours will be required to provide the information required for submitting a petition?

- What is your estimate of the cost to your firm for completing and submitting the proposed ERA-300A or ERA-300B?

- Are the instructions for the forms sufficiently clear?

- Which instructions should be clarified or expanded?

- Are the definitions provided sufficiently clear?

- Are there definitions which require further clarification?

- Are there any additional terms which should be defined?

- Are the reporting units specified in the forms consistent with those generally used by your firm for record-keeping and reporting purposes?

ERA is cognizant of the need to collect the data required on the ERA-300A and ERA-300B and of the burden that the reporting requirement may have on the respondent. Therefore, ERA encourages potential respondents to submit comments concerning these reporting forms to enable the development of a comprehensive reporting document with a minimum imposition of respondent burden.

#### III. REQUEST FOR CONFIDENTIAL TREATMENT

If you wish to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1970) as amended) or is otherwise exempt by law from public disclosure, and if you wish to request ERA not to disclose such information, you must disclose which information you wish to claim confidential treatment. You must indicate in the original document that it is confidential or contains confidential information and file a concise statement specifying the justification or non-disclosure of the information

## NOTICES

for which confidential treatment is claimed. If you state that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information or is covered by 18 U.S.C. 1905, you must include a concise statement specifying that such information is privileged or confidential.

If you indicate that a document is confidential and fail to submit a second copy of the document with the confidential information deleted, the ERA may assume that there is no objection to public disclosure of the document in its entirety.

The ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny each claim in whole or in part, and an opportunity to respond will be given to the person claiming confidentiality of information no less than 48 hours prior to the public disclosure of such information.

#### IV. CLARITY OF INSTRUCTION AND DEFINITIONS

If certain instructions or definitions accompanying the form are ambiguous, they should be identified and suggestions on how to clarify the obscurities submitted.

Issued at Washington, D.C., on November 27, 1978.

HAZEL R. ROLLINS,  
*Deputy Administrator, Economic Regulatory Administration.*

[6450-01-C]

ERA-300A

U.S. DEPARTMENT OF ENERGY  
Washington, D.C. 20461

Draft 11/24/78

POWERPLANT PETITION FOR EXISTING FACILITY CLASSIFICATION

No petition may be approved unless a completed ERA-300A is received no later than 14 days following the effective date of the final Transitional Facility Regulations.

A separate form must be submitted for each combustion turbine, combined cycle unit, package boiler or field erected boiler for which you are seeking a classification.

**1.0 IDENTIFICATION INFORMATION**  
What is the name, mailing address, city, state and zip code for the Facility, the Operating Company and the Parent Company, if applicable?

<p><b>1.1 Facility Data (Site)</b></p> <p>(a) Name _____</p> <p>(b) Address _____</p> <p>(c) City, State _____ Zip Code _____</p> <p>(d) County _____</p> <p>(e) Unit Identification _____</p>	DOE USE ONLY	<p><b>1.2 Operating Company</b></p> <p>(a) Name _____</p> <p>(b) Address _____</p> <p>(c) City, State _____ Zip Code _____</p>	DOE USE ONLY
<p><b>1.3 Parent Company (Complete if applicable)</b></p> <p>(a) Name _____</p> <p>(b) Address _____</p> <p>(c) City, State _____ Zip Code _____</p>	DOE USE ONLY	<p><b>1.4 Enter the name of the person in your company to whom questions regarding this petition may be directed:</b></p> <p>(a) Name _____</p> <p>(b) Title _____</p> <p>(c) Telephone, Including Area Code _____</p>	

**1.5 For what type of facility are you seeking a classification? (Check one)**

(a)  Package Boiler    (b)  Field Erected Boiler    (c)  Combustion Turbine    (d)  Combined Cycle Unit

**1.6 What is the capacity of the Transitional Facility**

(a) Combustion Turbine: \_\_\_\_\_ MMBTU's/Hour Heat Input

(b) Boiler: \_\_\_\_\_ Pounds of Steam/Hour

(c) Powerplant: \_\_\_\_\_ Megawatts Output

**1.7 What is the Primary Energy Source and the Alternate Fuel Capability for this Facility?**

(a) \_\_\_\_\_ Primary Energy Source    (b) \_\_\_\_\_ Alternate Fuel Capability

---

**2.0 ELIGIBILITY TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION**

<p><b>2.1 Construction/Purchase Dates</b></p> <p>(a) What is the date the purchase contract for the Transitional Facility was executed? (Month, Day, Year)</p> <p>(b) What is the date the construction contract for the Transitional Facility was executed?</p>	<p><b>2.2 Facility Data</b></p> <p>(a) If 1.5 (a) or (d) is checked above, enter the date the packaged boiler was delivered to site.</p> <p>(b) If 1.5 (b) is checked above, enter the date the boiler became operational.</p> <p>(c) If 1.5 (c) is checked above, enter the date the combustion turbine was delivered to the site.</p> <p>(d) If 1.5 (d) is checked above, enter the date the main steam drum was in place.</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**2.3 Eligibility**  
You are eligible to petition for an Existing Facility Classification and may complete the remainder of this petition if:

(a) Either date entered in 2.1 was on or after April 20, 1977 and the date entered in 2.2 was on or before November 9, 1978.    OR    (b) Either date entered in 2.1 was prior to April 20, 1977 and the date entered in 2.2 is after April 20, 1977.

**IF YOU DO NOT MEET THESE REQUIREMENTS, YOU ARE INELIGIBLE TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION.**

---

**3.0 SUPPORTING DOCUMENTATION**  
In support of your petition, you must complete and attach Schedule 3, Certified Statement of Delivery.

---

**4.0 CLASSIFICATION OF CONSIDERATION**  
If you meet the eligibility requirements, check the appropriate box(es) to indicate the basis for consideration of your petition and submit the schedule(s) indicated.

(a)  Electric Powerplant Petitioning under Substantial Financial Penalty (Schedule 1)    (b)  Powerplant Petitioning Under Impairment of Reliability (Schedule 2)

---

**5.0 CERTIFICATION**  
I certify that the information contained herein and appended hereto is true and accurate to the best of my knowledge.

Name	Title	Signature	Date

Title 18, USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

EIA-300A

SCHEDULE 1 - CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

Complete this schedule only if your facility meets the Eligibility Requirements and is an Electric Powerplant Applying Under a Substantial Financial Penalty.

1.0 IDENTIFICATION DATA

1.1 What is the name of the Facility (Site)? \_\_\_\_\_ 1.2 What is the Unit Identification? \_\_\_\_\_

1.3 What is the name of the Operating Company? \_\_\_\_\_

2.0 EXPENDITURES/NON-RECOVERABLE OUTLAY DATA

Enter the expenditures incurred for each of the items listed in (a) below, assuming (1) that the Transitional Facility (Unit) is terminated and (2) that the Transitional Facility (Unit) is redesigned. Items of Cost are listed by accounts as prescribed for Public Utilities in the Federal Energy Regulatory Commission's (formerly Federal Power Commission) Uniform System of Accounts. (Report all costs in Thousands of Dollars)

Account Code/Item of Cost (a)	Expenditures To 11/9/78 (b) (Actual \$)	Required Future Expenditures As of 11/9/78		Recoverable Expenditures		Non-Recoverable Outlays		Estimated Expenditure For a Comparable Sized Coal-Fired Unit (i)
		Terminated (c)	Redesigned (d)	Terminated (e)	Redesigned (f)	Terminated (g)	Redesigned (h)	
2.1 312 Boiler Plant Equipment								
(2) Boiler Feed System								
(3) Boiler Plant Cranes								
(4) Boiler & Equipment								
(5) Breeching & Accessories								
(6) Coal Handling & Storage Equipment								
(7) Draft Equipment								
(8) Gas-burning Equipment								
(9) Instruments & Devices								
(11) Oil Burning Equipment								
(12) Pulverized Fuel Equip.								
2.2 314 Turbogenerator Unit								
(21) Turbogenerator-Main								
2.3 316 Miscellaneous Powerplant Equipment								
(2) Cranes & Hoisting Equip.								
(5) Locomotive Cranes								
(6) Locomotives								
2.4 343 Prime Movers								
(5) Combustion Turbine								
2.5 Air Pollution Control Equip. (as defined in 10 CFR)								
2.6 TOTAL BASIC COST ITEMS								
2.7 311 Structures & Improvement								
Boiler House								
Cooling Ponds								
2.8 312 Boilerplant Equipment								
(1) Ash Handling Equipment, including Sludge Disposal								
(13) Stacks								
2.9 390 Structures & Improvement								
Other Building								
2.10 Roads, Railroads & Bridges								
(3) Railroads								
2.11 353 Station Equipment								
2.12 315 Accessory Electric Equip.								
2.13 TOTAL ADDITIONAL COST ITEMS								
2.14 TOTAL BASIC COST ITEMS & ADDITIONAL COST ITEMS								

3.0 SUPPORTING DOCUMENTATION

You must submit the following documents in support of your request for a classification based on Substantial Financial Penalty. Enter an "X" in the boxes provided to indicate that the documents are attached.

3.1 <input type="checkbox"/>	Copies of the sections of the Engineering design plan and copies of environmental analyses or their summaries which describes in detail, the design specifications, the construction schedule and the estimated engineering and contingencies of the transitional facility.	3.4 <input type="checkbox"/>	An analysis of all non-recoverable capital outlays that would result from termination, modification or rescheduling of your transitional facility construction project. Itemize in detail all non-recoverable outlays in 1978 dollars and all credits for equipment reused, any expenditures required for additional equipment or labor for modifying the transitional facility for an alternate fuel burning capability. Include significant sections contracts or legal obligations concerned with the termination and cancellation of contracts. A separate analysis should be submitted for (1) the termination of the facility construction and (2) the redirection for alternate fuel burning and their impact upon the rate base.
3.2 <input type="checkbox"/>	Copies of the contracts concerned with the purchase and construction of the Transitional Facility (Unit).		
3.3 <input type="checkbox"/>	An analysis of all capital expenditures for engineering, construction material and contingencies. Itemize in detail all project phases by percentage completed and expenditures or obligated expenditures as of November 9, 1978. (All capital expenditures to November 9, 1978 should be reported in actual dollars and should include date expended.)		

ERA-300A

SCHEDULE 2 - CLAIM BASED ON IMPAIRMENT OF RELIABILITY

Complete this schedule only if you are requesting consideration on the basis of an impairment of reliability.

<b>1.0 IDENTIFICATION DATA</b>				
1.1 What is the name of the Facility (Site)? _____				
1.2 What is the name of the Operating Company? _____				
1.3 What is the Unit Identification? _____				
1.4 What is the name of the Electrical Region? _____				
1.5 Enter the date your Transitional Facility Became Operational. (Month,Day,Year) _____				
1.6 Enter the projected date your Transitional Facility will become operational (Month,Day,Year) _____				
1.7 Enter the estimated date your alternate Fuel Fired Powerplant will be operational (Month, Day, Year). _____				
THE PERIOD BETWEEN THE DATE ENTERED in 1.5 or 1.6 AND THE DATE ENTERED IN 1.7 CONSTITUTES THE PERIOD OF DELAY.				
<b>2.0 RELIABILITY CONSIDERATIONS</b>				
Enter in megawatts for the years indicated: (a) the total projected capacity for the electric region, without the capacity from this Transitional Facility (unit), (b) the forecasted peakload for the electric region, (c) the capacity in excess of peakload and (d) the computation of the percentage effect on peakload.				
	Projected Capacity (a)	Forecasted Peakload (b)	Capacity in Excess of Peakload (b-c) (c)	Percentage Effect On Peakload (c ÷ b) (d)
2.1	1978			
2.2	1979			
2.3	1980			
2.4	1981			
2.5	1982			
2.6	1983			
2.7	1984			
2.8	1985			
2.9	1986			
2.10	1987			
2.11	1988			
IF THE AMOUNT SHOWN IN COLUMN (d) IS LESS THAN .20 FOR ANY YEAR DURING THE PERIOD OF DELAY, A REQUEST FOR CLASSIFICATION AS AN EXISTING FACILITY BASED ON IMPAIRMENT OF RELIABILITY MAY BE CONSIDERED.				
<b>3.0 ADDITIONAL REQUIREMENTS</b>				
In support of your claim for a classification based on impairment of reliability, you must submit the following supporting documentation. Place an "X" in the box to indicate that the documentation is attached.				
3.1	<input type="checkbox"/>	A description of the current generating capacity of the electrical region and a list of projected capacity addition by name and number of unit, owners, capacity, fuel type and alternate fuel. Annual contracted net purchases and sales to systems outside the region should also be identified by power level, by buyers and sellers.		
3.2	<input type="checkbox"/>	A description of the interconnection with other utilities including emergency ratings for each connection and an estimate of any additions or deletions to these interconnections.		
3.3	<input type="checkbox"/>	Copies of all contracts concerned with the purchase and construction of the transitional facility, to include the purchaser's design specifications contained in those contracts and a complete description of the transitional facility, if not included as a part of the contracts.		

## SCHEDULE 3 - CERTIFIED STATEMENT OF DELIVERY

This schedule must be signed by the Duly Authorized Officer of the firm which manufactured the packaged boiler, Field Erected Boiler, Combustion Turbine or Combined Cycle Unit for the facility for which you are submitting a petition.

1.0 IDENTIFICATION DATA								
1.1 What is the name, mailing address, city, state, zip code and facility identification for this facility?								
(a) Name _____	(d) Facility Identification _____							
(b) Address _____	_____							
(c) City, State _____	Zip Code _____							
1.2 Manufacturing Company Data								
(a) Name _____	_____							
(b) Address _____	_____							
(c) City, State _____	Zip Code _____							
2.0 DELIVERY DATA								
2.1 What is the date of delivery of the packaged Boiler or Combustion Turbine Unit (single or combined cycle operation)	<table border="1"> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>Month</td> <td>Day</td> <td>Year</td> </tr> </table>					Month	Day	Year
Month	Day	Year						
2.2 What is the date the field erected boiler's main steam drum was in place?	<table border="1"> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>Month</td> <td>Day</td> <td>Year</td> </tr> </table>					Month	Day	Year
Month	Day	Year						
3.0 CERTIFICATION								
I certify that the dates entered above are true and accurate to the best of my knowledge.								
Name _____	Date _____	Signature _____						
Title _____								
+								

Title 18 USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

DEPARTMENT OF ENERGY, ECONOMIC REGULATORY ADMINISTRATION, POWERPLANT PETITION FOR EXISTING FACILITY CLASSIFICATION, ERA 300A

I. Authority/Purposes. This petition form is required, pursuant to the provisions of Title 10 of the Code of Federal Regulations, Part 515 and Public Law 95-620 Powerplant and Industrial Fuel Use Act (FUA), to complete a petition to the Economic Regulatory Administration (ERA) for classification as an "existing" facility under the meaning of FUA. The information provided by the petition form will be used by ERA to perform the evaluation for classification as "existing."

II. Who May Submit. Form ERA 300A may be submitted by owners of facilities (units) for which acquisition and construction was commenced between April 20, 1977 and November 9, 1978. These facilities are considered "new" under FUA unless you petition ERA to classify the facility as "existing" under the meaning of FUA, and your petition is granted by ERA. Form ERA 300A is the means by which this petition may be made.

III. To Whom. Submit Form ERA 300A in triplicate (3) to: Department of Energy, Economic Regulatory Administration, ERA Docket—ERA-R-78-21, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

IV. When to Report. The Form ERA 300A must be submitted to ERA no later than 14 days after the effective date of the Final Transitional Facility Regulations.

V. Section 1.0 Identification Data.

1.1 Facility Location Data (site): This information pertains to the site where your transitional facility is located.

(a) Enter the Name by which the facility site is identified.

(b) Enter the Street Address of the facility site.

(c) Enter the City, State and County in which the facility site is located and the ZIP Code of the address.

(d) Enter the specific identification of the transitional facility unit. For example boiler #234.

1.2 Operating Company Identification: This information relates to the company which has the actual responsibility for the operation of the transitional facility. Included under the meaning of company is any individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, stock company, or municipal, county, State or Federal entity.

(a) Enter the Complete Name of the company.

(b) Enter the Street Address of the company.

(c) Enter the City and State where the company is located and the ZIP code for the address.

1.3 Parent Company Data: Complete this section only if there is an entity which controls, wholly or partially owns, or is responsible for the operating company.

(a) Enter the Name of the entity.

(b) Enter the Street Address of the entity.

(c) Enter the City and State where the entity is located and the ZIP code of the address.

1.4 Contact Person Identification: This information should relate to someone who can be contacted if there are questions regarding the information contained in this petition.

(a) Enter the Name of the Individual.

(b) Enter the Title by which the individual is identified in the company.

(c) Enter the Area Code and the Telephone Number at which the individual can be reached during normal working hours.

1.5 Check the appropriate box that indicates the type of unit for which you are requesting classification.

1.6 (a) Indicate the capacity of the transitional facility in British Thermal Units (BTU's) per hour in millions (input) for boilers and combustion turbines.

(b) Indicate the capacity of the transitional facility in Pounds of Steam per Hour (output) for powerplant boilers.

(c) The capacity of the Powerplant in Megawatts.

1.7 (a) Indicate the Primary Energy Source Used for all purposes except for minimum amounts required for start-up, testing, flame stabilization and control.

(b) Indicate any Alternate Fuel(s) capability the transitional facility may have.

Section 2.0 Eligibility to petition for an existing facility classification.

2.1 (a) Purchase Contract Date: Enter here the date that the contract for the purchase of the transitional facility unit was executed. For example, if the date was June 30, 1977, enter 06/30/77.

(b) Construction Contract Date: Enter here the date that the contract for the construction of the transitional facility unit was executed. For example, if the date was August 3, 1977, enter 08/03/77.

2.2 (a) If your transitional facility is a packaged boiler or a combined cycle unit that will utilize a packaged boiler, enter the date the packaged boiler was delivered to the facility site.

(b) If your transitional facility is a field erected boiler, enter the date that the boiler became operational.\*

(c) If your transitional facility is a combustion turbine, enter the date the combustion turbine was delivered to the facility site.

(d) If your transitional facility is a combined cycle unit that will utilize a field erected boiler, enter the date that the main steam drum of the boiler was put in place.

Section 4.0 Classification of consideration.

Indicate in this section what the basis of your petition to ERA will be. Check the appropriate box(es) to indicate whether you are petitioning for consideration under Substantial Financial Penalty, or Impairment of Reliability. Note that each item has a schedule indicated. For each item checked you must complete the appropriate schedule.

Section 5.0 Certification.

(1) If you file a petition under this part, on behalf of a corporation, the duly authorized officer of the corporation shall attest in writing to the accuracy of all information contained in or appended to your petition.

(2) If you are filing a petition under this part on behalf of a wholly-owned subsidiary, then the requirements of Paragraph (1) shall apply to the subsidiary and to the parent corporation as well. (Two signatures required.)

(3) If you are filing on behalf of an entity other than a corporation, the duly author-

\*As determined in accordance with this form and the FUA regulations governing transitional facilities.

ized officer shall attest in writing to the accuracy of all information contained in or appended to your petition.

SCHEDULE I—CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

This Schedule is to be used by Powerplants (Utilities) under the Substantial Financial Penalty classification.

1.0 Identification data.

1.1 Facility Name: Enter the name of the facility. This should be the same name that appears in item 1.1(a) on the Petition for Existing Facility Classification form.

1.2 Unit Identification: Enter the specific identification of the transitional unit. This should be the same name that appears in Item 1.1(d) on the Petition for Existing Facility Classification form.

1.3 Operating Company Name: Enter the name of the company that holds the responsibility for the operation of the Transitional Facility (unit). This should be the same name that appears in 1.2(a) of the Petition for Existing Facility Classification.

2. Expenditures/non-recoverable outlay data.

You may enter expenditures resulting from project termination, and/or enter expenditures resulting from project redesign.

Items of Cost Column (a) are listed by Accounts as prescribed for Public Utilities in The Federal Power Commission's Uniform Systems of Accounts currently in effect. All expenditures and outlay entered under Column (b) through (i) are restricted only to those items listed under Column (a) and specified by account and section number. (e.g. Boiler Plant Equipment (account 312) (2) Boiler Feed System would include only items as listed in section (2))

2.1-2.11 Enter for each Item of Cost under:

Column (b)—Expenditures as of November 9, 1978.

Expenditures in actual dollars (in thousands) for the project to November 9, 1978.

Column (c) or (d)—Required Future Expenditures:

Amounts in 1978 dollars (in thousands) of additional future expenditures required due to termination or redesign of project bound by legal obligations made prior to November 9, 1978.

Columns (e) or (f)—Recoverable Expenditures:

Amounts in 1978 dollars (in thousands) which are credits against (a) Expenditures to Date of Enactment and (b) Required Future Expenditures. This includes credit for equipment, material and properties which can be salvaged, sold, or reused.

Columns (g) or (h)—Non-Recoverable Outlays:

Amounts in 1978 dollars (in thousands). These numbers equal the difference between the sum of Expenditures to November 9, 1978 and Required Future Expenditures minus Recoverable Expenditures, Columns (b+c)—e=g or (b+d)—f=h.

You should compute (for each column (b) through (i) separately):

1. Total Basic Cost (Item 2.6) by adding Item 2.1 through 2.5.

Total Additional Cost (Item 2.13) by adding Items 2.7 through 2.12.

3. Total Basic Cost Items and Additional Cost Items (Item 2.14) by adding Items 2.6 and 2.13.

SCHEDULE 2—CLAIM BASED ON IMPAIRMENT OF  
ELECTRIC RELIABILITY

This schedule can be completed only if your transitional facility is an electric powerplant which produces electric power for purposes of sale or exchange and you are basing your claim for classification as an existing facility on an impairment of reliability.

**Section 1.0 Identification data.**

1.1 Enter the Name of the facility: This should be the same name that was entered in item 1.1(a) on the Petition for Existing Facility Classification form.

1.2 Name of Operating Company: Enter the name of the company that has operational responsibility for the transitional facility unit. The name entered here should be the same as was entered in 1.2(a) on the Petition for Existing Facility Classification.

1.3 Name of Electric Region: Enter here the Name of the electric region that the transitional facility powerplant is located in. (Note a complete listing of the Electric Regions is provided in the appendix to the definition section of this petition form.)

**Section 2.0 Reliability considerations.**

(a) Total Electric Region Capacity: Enter the total capacity of the electric region of which the transitional facility powerplant is a part. Do not include the capacity of your transitional facility powerplant. Express this answer in whole megawatts and enter the total for the correct year and for each year during the period of delay, which starts with the original operational date for your transitional facility unit and ends with the estimated operational date of the comparable alternate fuel fired unit.

[6450-01-C]

Draft 11/24/78

ERA-3008

U.S. DEPARTMENT OF ENERGY  
Washington, D.C. 20461

## MAJOR FUEL BURNING INSTALLATION PETITION FOR EXISTING FACILITY CLASSIFICATION

No petition may be approved unless a completed ERA-3008 is received no later than 14 days following the effective date of the final Transitional Facility Regulations.

A separate form must be submitted for each combustion turbine, combined cycle unit, package boiler or field erected boiler for which you are seeking a classification.

<b>1.0 IDENTIFICATION INFORMATION</b>	
What is the name, mailing address, city, state and zip code for the Facility, the Operating Company, and the Parent Company, if applicable?	
<b>1.1 Facility Data (Site)</b>	<b>1.2 Operating Company</b>
(a) Name _____ DOE USE ONLY	(a) Name _____ DOE USE ONLY
(b) Address _____	(b) Address _____
(c) City, State _____	(c) City, State _____
Zip Code _____	Zip Code _____
(d) County _____	
(e) Unit Identification _____	
<b>1.3 Parent Company (Complete if applicable)</b>	<b>1.4 Enter the name of the person in your company to whom questions regarding this petition may be directed:</b>
(a) Name _____ DOE USE ONLY	(a) Name _____
(b) Address _____	(b) Title _____
(c) City, State _____	(c) Telephone, including Area Code _____
Zip Code _____	
<b>2.0 FACILITY OPERATIONAL INFORMATION</b>	
<b>2.1 What is the designed capacity of your Transitional Facility (unit)?</b>	
(a) _____ MMBTU's/Hour Heat Input	(b) If the unit is a boiler: _____ Pounds of Steam/Hour Output
<b>2.2 If your transitional facility (unit) is operational, enter the date the unit became operational</b>	
_____ MONTH DAY YEAR	
<b>2.3 If your transitional facility (unit) is a Major Fuel Burning Installation that has 150 Million British thermal units per hour heat input design capacity or less, and the unit was operational on or before April 20, 1978, you need not complete the remainder of this petition. Proceed directly to 7.0.</b>	
<b>3.0 FACILITY INFORMATION</b>	
<b>3.1 What is the name and Standard Industrial Classification Code for the primary end product(s) manufactured utilizing the energy output of the transitional facility unit? If the SIC is unknown, enter the product only and DOE will enter the SIC.</b>	
(a) _____	(b) _____
(c) _____	(d) _____
1. Name of Product _____	
2. Four Digit SIC _____	
<b>3.2 For what type of facility are you seeking a classification? (Check One)</b>	
(a) <input type="checkbox"/> Package Boiler	(b) <input type="checkbox"/> Field Erected Boiler
(c) <input type="checkbox"/> Combustion Turbine	(d) <input type="checkbox"/> Combined Cycle Unit
<b>3.3 What is the Primary Energy Source and the Alternate Fuel Capability for this Facility?</b>	
(a) _____ Primary Energy Source	(b) _____ Alternate Fuel Capability
<b>4.0 ELIGIBILITY TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION</b>	
<b>4.1 Construction/Purchase Dates (Month, Day, Year)</b>	<b>4.2 Facility Dates (Month, Day, Year)</b>
(a) What is the date the purchase contract for the Transitional Facility was executed?	(a) Enter the date the packaged boiler was delivered to site.
(b) What is the date the construction contract for the Transitional Facility was executed?	(b) Enter the date the main steam drum was formed
	(c) Enter the date the combustion turbine was delivered to the site.
<b>4.3 Eligibility</b>	
You are eligible to petition for an Existing Facility Classification and may complete the remainder of this petition only if:	
(a) Either date entered in 4.1 was on or after April 20, 1977 and the date entered in 4.2 was on or before November 9, 1978.	(b) Either date entered in 4.1 was prior to April 20, 1977 and the date entered in 4.2 is after April 20, 1977.
OR	
IF YOU DO NOT MEET THESE REQUIREMENTS, YOU ARE INELIGIBLE TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION.	
<b>5.0 SUPPORTING DOCUMENTATION</b>	
In support of your petition, you must complete and attach Schedule 3, Certified Statement of Delivery.	
<b>6.0 CLASSIFICATION OF CONSIDERATION</b>	
Check the appropriate box(es) to indicate the basis for consideration of your petition and submit the schedule(s) indicated.	
(a) <input type="checkbox"/> MFI Petition Under Substantial Financial Penalty (Schedule 1)	(b) <input type="checkbox"/> MFI Petition for Significant Operational Detriment Under Substantial Mitigating Circumstances (Schedule 2)
(c) <input type="checkbox"/> MFI Petition for Significant Operational Detriment Under Load Shifting Criteria (Schedule 2)	
<b>7.0 CERTIFICATION</b>	
I certify that the information contained herein and appended hereto is true and accurate to the best of my knowledge.	
Name _____	Title _____
Date _____	Signature _____

Title 18, USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

ERA-3008

SCHEDULE 1 - CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

Complete this schedule only if your facility meets the Eligibility Requirements and is an Major Fuel Burning Installation Applying Under a Substantial Financial Penalty

1.0 IDENTIFICATION DATA

1.1 What is the name of the Facility (Site)? \_\_\_\_\_ 1.2 What is the Unit Identification? \_\_\_\_\_  
 1.3 What is the name of the Operating Company? \_\_\_\_\_

2.0 EXPENDITURES/NON-RECOVERABLE OUTLAY DATA

Enter the expenditures incurred for each of the items listed in (a) below, assuming (1) that the Transitional Facility (Unit) is terminated and (2) that the Transitional Facility (Unit) is redesigned. Do not include costs associated with land, labr engineering, contingency, facilities and site construction. (Report all costs in Thousands of Dollars)

Item of Cost (a)	Expenditures To 11/9/78 (b) (Actual \$)	Required Future Expenditures As of 11/9/78		Recoverable Expenditures		Non-Recoverable Outlays		Estimated Exp For a Compara Sized Coal Fi Unit (i)
		Terminated (c)	Redesigned (d)	Terminated (e)	Redesigned (f)	Terminated (g)	Redesigned (h)	
2.1 Boiler								
2.2 Combustion Turbine								
2.3 Steam Turbine								
2.4 Air Pollution Equip.								
2.5 Fuel Handling Equip. (Coal)								
(1) Coal Tower								
(2) Thawing Shed								
(3) Car Dumper								
(4) Conveyor(s)								
(5) Front End Loader(s)								
(6) Breaker								
(7) Coal Hopper, Silo, Bunker								
(8) Coal Feeders								
(9) Coal Seales								
(10) Pulverizers or Ball Mills								
(11) Primary Air System								
2.6 Fuel Handling Equip. (Oil)								
(1) Oil Storage Tanks								
(2) Heaters								
(3) Pumps								
(4) Control Valves								
2.7 TOTAL BASIC COST ITEMS								
2.8 Boiler House								
2.9 Other Buildings								
2.10 Stack								
2.11 Ash Handling Equipment								
2.12 Sludge Disposal Equipment								
2.13 Ponding								
2.14 Substation Power Generation								
2.15 Rail Spur or Barge								
2.16 Controls								
2.17 TOTAL ADDITIONAL COST ITEMS								
2.18 TOTAL BASIC COST ITEMS & ADDITIONAL COST ITEMS								

Additional Cost Items

3.0 COMPARISON COMPUTATION

3.1 Enter the amount shown in 2.7(i) \_\_\_\_\_  
 3.2 Multiply this amount by 25%                    x .25  
 3.3 Enter the product \_\_\_\_\_

4.0 PETITION CONSIDERATION

4.1 If the amount entered in 2.7 (g) or (h) is equal to or greater than the amount entered in 3.3, ERA will consider your request for a classification as an Existing Facility based on Substantial Financial Penalty.  
 4.2 If the amounts entered in 2.7 (g) and (h) are both less than the amount entered in 3.3, ERA will not consider your request for a classification as an Existing Facility based on Substantial Financial Penalty.

5.0 SUPPORTING DOCUMENTATION

You must submit the following documents in support of your request for a classification based on Substantial Financial Penalty. Enter an "X" in the boxes provided to indicated that the documents are attached.

- 5.1  Copies of the sections of the Engineering design plan and copies of environmental analyses or their summaries which describes in detail, the design specifications, the construction schedule and the estimated engineering and contingencies of the transitional facility.
- 5.2  Copies of the contracts concerned with the Purchase and and construction of the Transitional Facility (Unit).
- 5.3  An analysis of all capital expenditures for engineering, construction material and contingencies. Itemize in detail all project phases by percentage completed and expenditures or obligated expenditures as of November 9, 1978. (All capital expenditures to November 9, 1978 should be reported in actual dollars and should include date expended.)
- 5.4  An analysis of all non-recoverable capital outlays that would result from termination, modification or rescheduling of your transitional facility construction project. Itemize in detail all non-recoverable outlays in 1978 dollars and all credits for equipment reused, any expenditure required for additional equipment or labor for modifying the transitional facility for an alternate fuel burning capability. Include significant sections contracts or legal obligations concern with the termination and cancellation of contracts. A separate analysis should be submitted for (1) the termination of the facility construction and (2) the redirection for alternate fuel burn and their impact upon the rate base.

ERA-300 B

Draft 11/24/78

SCHEDULE 2 - Claim Based on Significant Operational Detriment

Complete Schedule 2 only if you are a Major Fuel Burning Installation basing your claim for an Existing Facility Classification on a Significant Operational Detriment

<b>1.0 IDENTIFICATION DATA</b>								
1.1 What is the Name of the Facility _____								
1.2 What is the Unit Identification? _____								
1.3 What is the name of the Operating Company? _____								
1.4 What was the status of the Facility (Unit) on 11/9/78?								
(a) <input type="checkbox"/> Operational. Complete 2.0 and/or 5.0 below								
(b) <input type="checkbox"/> Not Operational Complete 3.0 below								
1.5 If the Facility is Operational, enter the date it became operational		<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 30px; height: 20px;"></td> <td style="width: 30px; height: 20px;"></td> <td style="width: 30px; height: 20px;"></td> </tr> <tr> <td style="font-size: 8px;">Month</td> <td style="font-size: 8px;">Day</td> <td style="font-size: 8px;">Year</td> </tr> </table>				Month	Day	Year
Month	Day	Year						
<b>2.0 LOAD SHIFTING CRITERIA</b>								
Enter pounds of steam per hour output for boilers or BTU's per hour for combustion turbines. Do not include unscheduled downtime which was not maintenance on boiler inspection during which the facility was operational								
	Pounds of Steam Per Hour (A)	BTU's Per Hour (B)						
2.1 What is the expected operations out/input of the Transitional Facility?								
2.2 What was the average total output/input of all other existing operational units at the site which produced the same form or energy output as the Transitional Facility for the 12-month period ending 12/31/78?								
2.3 What is the total design output/input capacity of all other existing units at the site which produce the same form of energy output as the Transitional Facility?								
<b>3.0 COMPUTATION OF SIGNIFICANT OPERATIONAL DETRIMENT CLASSIFICATION</b>								
3.1 Enter the sum of 2.1 and 2.2 _____								
3.2 Compute 95 % of this sum		x .95						
3.3 Enter the product _____								
<b>4.0 PETITION CONSIDERATION</b>								
If the entry on line 3.3 is greater than the entry on line 2.3, ERA will consider your claim based on Substantial Operational Detriment								
<b>5.0 SUBSTANTIAL MITIGATING CIRCUMSTANCES</b>								
If there are substantial mitigating circumstances that will cause a significant operational detriment, should your facility not be classified as an existing facility, you may file under this section if you are an MFBI. Mitigating circumstances may be based on, but are not limited to following examples:								
5.1 Status of construction and anticipated start up date.								
5.2 Anticipated annual capacity utilization factor, as well as seasonal or other variations in use.								
5.3 Potential impact on the loss of production which could not be rescheduled elsewhere.								
5.4 Potential adverse impact on employment, which would include the number and types of jobs lost, the duration of unemployment and whether such jobs could be absorbed elsewhere within the parent company, if applicable.								

**6.0 SUPPLEMENTAL DOCUMENTATION**

If you cannot produce at least 95 percent of the capacity of your Transitional Facility or if you are applying under Mitigating Circumstances, you must submit the following supporting documentation.

- 6.1  Copies of contracts concerned with the purchase and construction of your Transitional Facility and a full accounting of the design specifications. The design specifications are to include but are not limited to a steam flow (pressure and temperature), heat balance coal analysis (BTU's/cubic foot/hour), furnace volume (cubic feet), tube spacing and velocity of flue gas (feet/second).
- 6.2  A description of the site at which the Transitional Facility is located to include as a minimum the following (a) location of the boiler, turbines, stack, coal yard, ash pond, waste water treatment plant, and (2) a floor plan of all building indicating the location of major items.
- 6.3  Worksheet Schedule 2A
- 6.4  If applicable, a statement containing any other relevant factors ERA should consider in making a decision on your claim.

Submit the following supplemental documentation only if the facility is not operational (Item 1.4 (b) is checked.)

- 6.5  A Site Construction Status Report to include (a) the date major components were delivered to the site, (b) the date foundation work was completed, (c) the date the building structure work was completed, (d) the date on site component assembly was completed (e) a schedule of milestone leading to completion of facility, (f) the estimated date transitional facility will be placed in service.
- 6.6  If the construction of this facility has been completed, provide the operation status of the facility.
- 6.7  Provide the planned or actual capacity utilization factor of the unit and the planned or actual hours of operation per year and the annual average volume of each fuel to be used.

ERA-300 B

11/24/

Schedule 2A-- SUPPLEMENTAL DOCUMENTATION FOR PETITION BASED ON LOAD SHIFTING CRITERION OF SIGNIFICANT OPERATIONAL DETRIMENT

1.0 IDENTIFICATION DATA											
1.1 What is the Name of the Facility?					1.2 What is the Unit Identification?						
1.3 What is the name of the Operating Company?											
2.0 FACILITY DATA											
	(a) Boiler Design (Lbs. of Steam/Hr.)	(b) Capacity Utilization Factor (%)	(c) Boiler Design (Lbs. of steam/hr.) multiplied by Capacity Utilization Factor (%)	(d) Boiler Design Pressure (PSIG) & Temp. (Degrees Fahrenheit)	(e) Combustion Turbine Design Input (BTU/hr.)	(f) Combustion Turbine Capacity Utilization Factor (%)	(g) Combustion Turbine Design Input multiplied by Capacity Utilization Factor (%)	(h) Identification Number	(i) Fuel Used	(j) BTU/lb. gal. or cu. ft. of fuel used	(k) Tone or Cost MCF/yr.
2.1 Transitional Facility											
2.2 Other Operational Units:											
1.											
2.											
3.											
4.											
5.											
6.											
7.											
8.											
9.											
10.											
Total of other operational units (Cols. A, C and/or E, G only)											

Date 11/24/78

ERA-300B

## SCHEDULE 3 - CERTIFIED STATEMENT OF DELIVERY

This schedule must be signed by the Duly Authorized Officer of the firm which manufactured the packaged boiler, Field Erected Boiler, Combustion Turbine or Combined Cycle Unit for the facility for which you are submitting a petition.

<b>1.0 IDENTIFICATION DATA</b>								
1.1 What is the name, mailing address, city, state, zip code and facility identification for this facility?								
(a) Name _____	(d) Facility Identification _____							
(b) Address _____								
(c) City, State Zip Code _____								
<b>1.2 Manufacturing Company Data</b>								
(a) Name _____								
(b) Address _____								
(c) City, State Zip Code _____								
<b>2.0 DELIVERY DATA</b>								
2.1 What is the date of delivery of the packaged Boiler or Combustion Turbine Unit (single or combined cycle operation)	<table border="1" style="width: 100%; text-align: center; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 20px;"> </td> <td style="width: 33%; height: 20px;"> </td> <td style="width: 33%; height: 20px;"> </td> </tr> <tr> <td>Month</td> <td>Day</td> <td>Year</td> </tr> </table>					Month	Day	Year
Month	Day	Year						
2.2 What is the date the field erected boiler's main steam drum was formed?	<table border="1" style="width: 100%; text-align: center; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 20px;"> </td> <td style="width: 33%; height: 20px;"> </td> <td style="width: 33%; height: 20px;"> </td> </tr> <tr> <td>Month</td> <td>Day</td> <td>Year</td> </tr> </table>					Month	Day	Year
Month	Day	Year						
<b>3.0 CERTIFICATION</b>								
I certify that the dates entered above are true and accurate to the best of my knowledge.								
Name _____	Date _____	Signature _____						
Title _____								

+ Title 18 USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

DEPARTMENT OF ENERGY ECONOMIC REGULATORY ADMINISTRATION MAJOR FUEL BURNING INSTALLATION PETITION FOR EXISTING FACILITY CLASSIFICATION ERA 300B

I. Authority/Purposes. This petition form is required, pursuant to the provisions of Title 10 of the Code of Federal Regulations, Part 515 and Public Law 95-620 Powerplant and Industrial Fuel Use Act (FUA), to complete a petition to the Economic Regulatory Administration (ERA) for classification as an "existing" facility under the meaning of FUA. The information provided by the petition form will be used by ERA to perform the evaluation for classification as "existing."

II. Who May Submit. Form ERA 300B may be submitted by owners of facilities (units) for which acquisition and construction was commenced between April 20, 1977 and November 9, 1978. These facilities are considered "new" under FUA unless you petition ERA to classify the facility as "existing" under the meaning of FUA, and your petition is granted by ERA. Form ERA 300B is the means by which this petition may be made.

III. To Whom. Submit Form ERA 300B in triplicate (3) to:  
Department of Energy  
Economic Regulatory Administration  
ERA Docket—ERA-R-78-21  
2000 M Street, N.W., Room 2313, Washington, D.C. 20461

IV. When to Report. The Form ERA 300B must be submitted to ERA no later than 14 days after the effective date of the final Transitional Facility Regulations.

V. Section 1.0 Identification data.

1.1 Facility Location Data (site): This information pertains to the site where your transitional facility is located.

(a) Enter the Name by which the facility site is identified. For example, General Motors Lansing Plant #2

(b) Enter the Street Address of the facility site

(c) Enter the City, State and County in which the facility site is located and the ZIP code of the address

(d) Enter the specific identification of the transitional facility unit. For example, Boiler #234.

1.2 Operating Company Identification: This information relates to the company which has the actual responsibility for the operation of the transitional facility. Included under the meaning of the company is any individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, stock company, or municipal, county, state or Federal entity.

(a) Enter the Complete Name of the company

(b) Enter the Street Address of the company

(c) Enter the City and State where the company is located and the ZIP code for the address

1.3 Parent Company Data: Complete this section only if there is an entity which controls, wholly or partially owns, or is responsible for the operating company.

(a) Enter the Name of the entity

(b) Enter the Street Address of the entity

(c) Enter the city and State where the entity is located and the ZIP code of the address.

1.4 Contact Person Identification: This information should relate to someone who can be contacted if there are questions re-

garding the information contained in this petition.

(a) Enter the Name of the individual.

(b) Enter the Title by which the individual is identified in the company.

(c) Enter the Area Code and Telephone Number at which the individual can be reached during normal working hours.

Section 2.0 Facility operational information.

2.1 Enter the design heat input of your transitional facility unit (expressed in millions of BTUs). If your transitional facility unit is a boiler also add the design output capacity of the unit expressed in pounds of steam per hour.

2.2 Enter the date your transitional facility unit became operational.

Section 3.0 Facility information.

3.1 Industrial Classification Code: This information pertains to the end products which will be produced using the energy output of the transitional facility unit.

(a), (b), (c), Enter the four digit Standard Industrial Code for the end product(s)

(d) If the Standard Industrial Code is not known, enter the common name of the product(s)

3.2 Check the appropriate box to indicate the type of unit your transitional facility is. For example, if your unit is a packaged boiler, check the box next to "packaged boiler."

3.3 Indicate the Primary Fuel energy source used for all purposes except for minimum amounts required for start-up, testing, flame stabilization and control.

Indicate any Alternate Fuel(s) capability the transitional facility may have.

Section 4.0 Eligibility to petition for an existing facility classification.

4.1 (a) Purchase Contract Date: enter here for the Date that the contract for the purchase of the transitional facility unit was executed. For example, if the date was August 3, 1977, enter 08/03/77.

(b) Construction Contract Date: Enter here the Date that the contract for the construction of the transitional facility unit was executed. For example if the date was August 3, 1977, enter 08/03/77.

4.2 (a) If your transitional facility is a packaged boiler or a combined cycle unit that will utilize a packaged boiler, enter the date the packaged boiler was delivered to the facility site.

(b) If your transitional facility is a field erected boiler or a combined cycle unit that will utilize a field erected boiler, enter the date that the main steam drum of the boiler was formed at the boiler factory.

(c) If your transitional facility is a combustion turbine, enter the date the combustion turbine was delivered to the facility site.

Section 6.0 Classification of Consideration. Indicate in this section what the basis of your petition to ERA will be. Check the appropriate box(es) to indicate whether you are petitioning for consideration under Substantial Financial Penalty, Significant Operational Detriment. Note that each item has a schedule indicated. For each item checked you must complete the appropriate schedule. To verify that you are eligible to petition under any of these classifications, check the parenthetical numbers listed on the form.

You are not eligible to petition under load shifting unless you were operational on or before November 9, 1978.

You may petition under substantial mitigating circumstances if you are operational or non-operational.

Section 7.0 Certification.

(1) If you file a petition under this part, on behalf of a corporation, the duly authorized officer of the Company shall attest in writing to the accuracy of all information contained in or appended to your petition.

(2) If you are filing a petition under this part, on behalf of a wholly-owned subsidiary, then the requirements of Paragraph (1) shall apply to the subsidiary and to the parent corporation as well. (Two signatures required.)

(3) If you are filing on behalf of an entity other than a corporation, the duly authorized officer shall attest in writing to the accuracy of all information contained in or appended to your petition.

SCHEDULE I—CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

This Schedule is to be used by Major Fuel Burning Installations (MFBI) under the Substantial Financial Penalty classification.

1.0 Identification data.

1.1 Facility Name:

(a) Enter the name of the facility. This should be the same name that appears in item 1.1(a) on the Petition for Existing Facility Classification form.

(b) Enter the specific identification of the transitional unit. This should be the same name that appears in Item 1.1(d) on the petition for existing facility Classification form.

1.2 Unit Identification (See Sheet A).

1.3 Operating Company Name: Enter the name of the company that holds the responsibility for the operation of the Transitional Facility (unit). This should be the same name that appears in 1.2(a) of the Petition for Existing Facility Classification.

2.0 Expenditures/non-recoverable outlay data.

You may enter under expenditures resulting from project termination, and/or enter expenditures resulting from project redesign.

2.1-2.16 Enter for each Item of Cost under:

Column (b) Expenditures as of November 9, 1978. Expenditures in actual dollars (in thousands) for the project to November 9, 1978.

Column (c) or (d) Required Future Expenditures: Amounts in 1978 dollar (in thousands) of additional future expenditures required due to termination or redesign of project bound by legal obligations made prior to November 9, 1978.

Column (e) or (f) Recoverable Expenditures: Amounts in 1978 dollars (in thousands) which are credits against (a) Expenditures to Date of Enactment and (b) Required Future Expenditures. This includes credit for equipment, material and properties which can be salvaged, sold, or reused.

Column (g) or (h) Non-Recoverable Outlays: Amounts in 1978 dollars (in thousands). These numbers equal the difference between the sum of Expenditures to November 9, 1978 and Required Future Expenditures minus Recoverable Expenditures, Columns (b+c) - e = g or (b+d) - f = h.

You should compute (for each column (b) Through (i) separately:

1. Total Basic Items (Item 2.7) by adding 2.1 through 2.6.

2. Total Additional Cost (Item 2.17) by adding Items 2.8 through 2.16.

3. Total Basic Cost Items and Additional Cost Items (Item 2.18) by adding Item 2.7 and 2.17.

**INSTRUCTIONS FOR SCHEDULE 2—CLAIM BASED ON SIGNIFICANT OPERATIONAL DETRIMENT**

This schedule is to be used by Major Fuel Burning Installations (MFBI) only.

**Identification Data**

1.1 Facility Location Data (Site): Enter the name of the facility. This should be the same name that was entered in item 1.1(a) on the petition for existing facility classification form.

1.2 Unit Identification: Enter the specific identification of the transitional facility unit. This should be the same as was entered in item 1.1(d) of the petition for existing facility classification form.

1.3 Operating Company Name: Enter the name of the company that holds the responsibility for the operation of the transitional facility unit. The name entered here should be the same as was entered in 1.2(a) of the Petition for Existing Facility Classification.

1.4 Unit Operational Status: Check the operational status of your transitional facility unit as of November 9, 1978. If your unit became operational (see definitions) on or before November 9, 1978, you should check **OPERATIONAL**. If your unit became operational after November 9, 1978, you should check **NOT OPERATIONAL**.

2.0 and 3.0 Significant operational detriment determination.

This section contains the criteria that will allow you to base your claim for classification as an existing facility on significant operational detriment. There are two criteria. The first is the **LOAD SHIFTING CRITERION** and the second is the **SUBSTANTIAL MITIGATING CIRCUMSTANCES** criterion. If your unit was not operational November 9, 1978, you may base your claim only on substantial mitigating circumstances. If your unit was operational November 9, 1978, you may base your claim on one of both of the criteria.

**2.1 Load Shifting Criterion:**

2.1 Enter item c or item g for transitional facility from the work sheet Schedule 2a. (See definition of Operational)

2.2 Enter the total of Other Operational Units (columns c and/or g only) from the work sheet Schedule 2a.

2.3 Enter the total of Other Operational Units (columns a and/or e only) from the work sheet Schedule 2a.

2.4(a) Add the pounds of steam per hour output or BTUs per hour input from 2.1 and 2.2 together and enter total.

2.4(c) Multiply the entry in 2.4(a) by .95 and enter the result.

**3.0 Substantial mitigating circumstances criterion.**

Listed in this section are several examples of what might be mitigating circumstances. This list is not all-inclusive and is not intended to limit your petition to only these mitigating circumstances. You may base your claim on whatever mitigating circumstances you feel are appropriate, however, you must be able to demonstrate to ERA that mitigating circumstances will cause significant operational detriment.

**INSTRUCTIONS FOR SCHEDULE 2A**

Supplemental Documentation for Petition Based on Significant Operational Detriment.

This item must be completed if you are petitioning for consideration based on the load shifting criteria of Significant Operational Detriment.

Begin by completing the line marked "Transitional Facility," reading across the page you must complete the columns that apply to your transitional facility unit. For example if your transitional facility unit is a boiler you would have to complete columns A, B, C, D, H, I, J and K. If your transitional facility unit is a combustion turbine you must complete columns E, F, G, H, I, J and K.

You must than complete one line for each operational unit at the same site as your transitional facility unit that can provide the same energy output as your transitional facility unit. If the unit is a boiler you must enter the appropriate information in columns E, F, G, H, I, J and K.

**DEFINITIONS**

Unless otherwise expressly provided, for purposes of this form, the term:

"Acquisition" means the physical delivery of a unit to the site and does not include mere transfer of title of ownership.

"Alternate fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes—

- (a) coal;
- (b) solar energy;
- (c) petroleum coke, shale oil, uranium, biomass, and municipal, industrial, or agricultural wastes, wood and renewable and geothermal energy sources;
- (d) liquid, solid, or gaseous waste byproducts of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity.
- (e) any fuel derived from an alternate fuel; and
- (f) waste gases from industrial operations.

"Btu" means British thermal unit.

"Coal" means anthracite and bituminous and sub-bituminous coal; lignite and any fuel derivative thereof.

"Cogeneration facility" means an electric powerplant or a major fuel burning installation which produces (A) electric power and (B) any other form of useful energy (such as steam, gas or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

"Combined cycle unit" means an electric power generating unit that consists of a combination of one or more combustion gas turbine units and one or more steam turbine units with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit.

"Comparable coal unit" means a coal-fired unit which will provide energy output equal to the output capacity of the transitional facility.

"Conference" means an informal meeting, incident to any proceeding, between DOE and any interested person.

"Construction" means substantial physical on-site construction of an electric powerplant or major fuel burning installation which constitutes more than clearance of a site, provision of access or installation of foundation pilings.

"Design capacity or capability" means, with reference to any boiler, gas turbine

unit, combined cycle unit or internal combustion engine subject to the provisions of the Act, the design heat input capacity expressed in millions of BTU's per hour specified by the manufacturer of the subject unit.

"DOE" or "the Department" means the United States Department of Energy, as defined in Sections 201 and 301(a) of the Department of Energy Organization Act, including the Secretary of Energy or his designee.

"Electric Powerplant" and "powerplant" means any stationary electric generating unit, consisting of a boiler, a combustion turbine unit or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(a) has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(b) is in a combination of two or more electric generating units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

"Electric generating unit" does not include—

(a) any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(b) any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale.

"Electric Region" means one of the 29 geographic areas identified in Appendix A at the end of this section.

"Electric utility" means any person, including any affiliate, or Federal agency, who sells electric power.

"ERA" means the Economic Regulatory Administration of the Department of Energy.

"Existing boiler" means any boiler other than a new boiler.

"Facility" means an electric powerplant or major fuel burning installation.

"FERC" means the Federal Energy Regulatory Commission.

"Formation of main stream drum" means when the drum plate has been pressed or rolled, the drum seams welded, and the stubs and nozzles welded to the drum.

"Impairment of reliability" means any delay caused by termination or redirection of the construction of your electric powerplant to provide alternate fuel burning capability during which the overall electric regions reserve margin will be less than 20 percent. The reserve margin percentage is computed by subtracting the normal peak load expected during the delay from the system's total capability, including the additional capacity that will be available through inter-connections, and dividing the result by the projected normal peak load during such delay.

"Intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Internal combustion engine" means a heat engine in which the combustion that generates the heat takes place inside the engine proper.

"Loss of load" means the number of hours per year during which the total demand for

electricity within the region could exceed the available supply of generating capacity to the region.

"Major fuel burning installation," "installation" and "MFBI" mean a stationary unit consisting of a boiler, combustion turbine unit, combined cycle unit, including an internal combustion engine used for generation of electricity, which—

(a)(i) has a design capability of consuming any fuel, or mixture thereof, at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel, or mixture thereof, at a fuel heat input rate of 250 million Btu's per hour or greater.

(b) in determining whether units are at the same site for purposes of defining "new major fuel burning installations," ERA will presume that units within 10 miles of each other are located at the same site.

(c) "Major fuel burning installation," "installation," and "MFBI" do not include—

(i) any electric powerplant; or

(ii) any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only if there is certification to ERA or such use.

"Mcf" means 1,000 cubic feet of natural gas.

**Natural gas** means any fuel consisting in whole or in part of natural gas; liquid petroleum gas; synthetic gas derived from petroleum or natural gas liquids; or any mixture of natural gas and synthetic gas, except as designated in (1)(iv) below.

(1) Natural gas does not include—

(i) natural gas which is commercially unmarketable either by reason of quality or quantity. Gas is commercially unmarketable when production from the well(s) does not provide adequate revenue to pay the operating expenses of production and distribution.

(ii) natural gas produced by the user from a well acquired by the user prior to July 18, 1977\* the maximum efficient rate production rate of which is less than 250 million Btu's per day. For purposes of this subparagraph—

(A) "produced by the user" means that the user must own a working (mineral) interest in the gas being produced from the subject well(s).

(B) "maximum efficient production rate" means that rate at which production may be sustained without damage to the reservoir or the rate which may be sustained without damage to the ultimate recovery of gas through the well.

(iii) synthetic gas, derived from an alternate fuel which is not mixed with natural gas; or

(iv) natural gas for which the person proposing to use the gas certifies to ERA that:

(A) such person owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal or another alternate fuel;

(B) the Btu content of such synthetic gas is equal to or greater than the Btu content of the natural gas to be converted by this subsection by reason of such certification, plus the approximate Btu content of any

natural gas consumed or lost in transportation;

(C) such person delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person; and

(D) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purpose of the prohibition under Section 201(2) of the Act against powerplants being constructed without the capability of using coal or the construction of such synthetic gas facilities shall be required under this subparagraph to be certified and documented.

"New electric powerplant" means a stationary unit consisting of a boiler, gas turbine unit or combined cycle unit which—

(a)(i) has a design capacity of consuming any fuel (or mixture thereof) of a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) has in combination with all other units at the same site, whether new or existing, an aggregate design capability of consuming any fuel (or mixture thereof) at a fuel heat rate input rate of 250 million Btu's an hour or greater. For purposes of this clause, there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 50 million Btu's per hour, and

(b) which (i) was not operational as of April 20, 1977; (ii) which since April 20, 1977, has been reconstructed or refurbished or added to, to the extent that the cost of such reconstruction, refurbishment, or addition equals or exceeds 50 percent of the price of a replacement unit, or (iii) has been moved from one site to another since (the date of enactment);

(c) the term "new electric powerplant" does not include any unit deemed existing under Part 2515 of this Title.

"New major fuel burning installation" means a stationary unit consisting of a boiler, combustion turbine unit, combined cycle unit, or internal combustion engine including and internal combustion engine used for the generation of electricity which—

(a)(i) has a design capacity of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or (ii) has in combination with all other units at the same site, whether new or existing, an aggregate design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's an hour or greater. For purposes of this clause, there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 50 million Btu's per hour; and

(b)(1) which was not operational as of April 20, 1977; or (ii) which since April 20, 1977, has been reconstructed or refurbished or added to, to the extent that the cost of such reconstruction refurbishment, or addition equals or exceeds 50 percent (iii) has been moved from one site to another since November 9, 1978.

(c) the term "new major fuel burning installation" does not include any unit

deemed existing under Part 2515 of this Title.

"Non-boiler" means any stationary unit which is not a boiler and which consists of either a combustion turbine unit, combined cycle unit or internal combustion engine.

For the purposes of this Act, non-boilers includes any stationary internal combustion electric generating unit.

**Petroleum** means crude oil and products delivered from crude oil, other than—

(1) synthetic gas derived from crude oil and its derivatives;

(2) liquid petroleum gas;

(3) petroleum coke or waste gases from non-refinery industrial operations; and

(4) liquid, solid, or gaseous byproducts of refinery operations which are commercially unmarketable by reason of—

(i) quality, where the byproducts, including components such as butane and propane which can be extracted from the byproducts, could not—

(A) reasonably be expected to be used in non-refinery operations; and

(B) be produced and distributed at a price which would provide adequate revenue to pay the operating expenses of this production and distribution; or

(ii) quantity, where—

(A) insufficient or sporadic quantities of the byproduct, including components such as butane and propane which can be extracted from the byproducts, are produced to maintain an adequate and reliable supply to a potential user; and

(B) no dependable market exists for these byproducts, or components of the byproducts, which can support a price which will provide adequate revenue to pay the operating expenses of the production and distribution of the byproduct or its components.

"Primary energy source" means that the fuel or fuels used for normal operation by any existing or new electric powerplant or major fuel burning installation, except

(a) minimum amounts of fuel required for unit ignition startup, testing, flame stabilization and control uses, and

(b) minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting health, safety or welfare which would result from electric power outages.

"Proceeding" means a process and activity, and any part thereof, instituted by DOE, either on its own initiative or in response to an application, complaint, petition or request submitted by the owner or operator of a powerplant, major fuel burning installation, or any other person that may lead to an action by DOE.

"Recoverable outlays" are those expenditures you have made or will be required to make, as of the date of enactment, for your transitional facility, for equipment and facilities which can be sold or salvaged, or could be used in the construction or operation of an alternate fuel facility. The following are examples of some of the items that could be recoverable outlays: land and land rights, powerplant building, steam turbine, steam turbine control equipment, transformers and switchyard, electrical, and other structural parts and materials.

"Synthetic fuel" means any synthetic fuel derived from an alternate fuel and does not include synthetic fuels derived from petroleum or natural gas.

"Transitional Facility unit" means a powerplant or major fuel burning installation on which substantial construction or

\* Drafter's Note: July 18, 1977, is the date which the House of Representatives passed the provision introducing the maximum efficient production rate of 250 million Btu's/day into the proposed legislation.

acquisition began between April 20, 1977, and November 9, 1978, the date of enactment of the Powerplant and Industrial Fuels Use Act (FUA).

"Turbine or combustion turbine" means an electric power generating unit that is a combination of a rotary engine driven by gas under pressure that is created by the combustion of any fuel, with an electric power generator driven by the engine.

[FR Doc. 78-33669 Filed 12-1-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket Nos. CS78-747, et al.]

APPLICATIONS FOR "SMALL PRODUCER" CERTIFICATES<sup>1</sup>

NOVEMBER 21, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to inter-

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

vene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary

Docket No.	Date filed	Applicant	Docket No.	Date filed	Applicant
CS78-747	9/12/78	Jerry L. Hopper, P.O. Drawer 2086, Midland, Tex. 79702.	CS78-769	9/19/78	Mark A. Meisner, 1028 N.W. 91st Terrace, Gainesville, Fla. 32601
CS78-748	9/11/78	Robert V. Skinner, Box 743, Spearman, Tex. 79081.	CS78-770	9/19/78	Wesley R. Gates, P.O. Box 1467, Gainesville, Fla. 32602
CS78-749	9/11/78	Woolsey Petroleum Corp., 300 West Douglas, Suite 400, Wichita, Kans. 67202.	CS78-771	9/19/78	Robert M. Gates, 2025 N.W. 27th Street, Gainesville, Fla. 32605.
CS78-750	9/12/78	Arthur T. Stieren, D-101 Petroleum Center, San Antonio, Tex. 78209.	CS78-772	9/19/78	Richard D. Gates, 2025 N.W. 27th Street, Gainesville, Fla. 32605.
CS78-751	9/12/78	Jelliffe Oil Co., 901 N.E. Loop 410, Suite 634, San Antonio, Tex. 78209.	CS78-773	9/19/78	Janet L. Gates, 2025 N.W. 27th Street, Gainesville, Fla. 32605
CS78-752	9/12/78	RAM Oil Co., P.O. Box 118, Browns, Ill. 62818.	CS78-774	9/19/78	Thomas W. Gates, 6231 S.W. 36th Way, Gainesville, Fla. 32601.
CS78-753	9/14/78	OFT Exploration, Inc., One Post Street, Suite 3330, San Francisco, Calif. 94104.	CS78-775	9/19/78	Joe Perry Williams, 2327 Twin Lakes Circle, Jackson, Miss. 39211.
CS78-754	9/12/78	Cub F. Dillard, Jr., P.O. Box 8848, Fort Worth, Tex. 76112	CS78-776	9/19/78	Wayne R. Davis, 4127 N.W. 27th Lane, Gainesville, Fla. 32601.
CS78-755	9/12/78	Woodruff Land & Mineral Trust, Howard L. Woodruff, Trustee, P.O. Box 1563, Ardmore, Okla. 73401.	CS78-777	9/19/78	James L. Cannon, 4127 Northwest 27th Lane, Gainesville, Fla. 32601.
CS78-756	9/15/78	Adele Frost, 1802 NBC Building, San Antonio, Tex. 78205.	CS78-778	9/19/78	Mrs. Edythe D. Hansen, 4127 Northwest 27th Lane, Gainesville, Fla. 32601.
CS78-757	9/15/78	Pacific Century Resources, Inc., 1200 American Natl. Bank Bldg., Denver, Colo. 80202.	CS78-779	9/19/78	Selby F. Barnes, P.O. Box 12348, Jackson, Miss. 39211.
CS78-758	9/18/78	Delta Energy Resources, Inc., 3002 Country Club Road, Lake Charles, La. 70605.	CS78-780	9/19/78	Mr. and Mrs. Charles Nelson, 3611 Woodmont Blvd., Nashville, Tenn. 37215.
CS78-759	9/18/78	Nueve Operating Co. of Texas, 401 First State Bank Building, Abilene, Tex. 79602.	CS78-781	9/19/78	William F. Browning III, 1403 Standard Life Building, Jackson, Miss. 39201.
CS78-760	9/18/78	Herndon Drilling Co., P.O. Box 469, Tulsa, Okla. 74101.	CS78-782	9/19/78	Stephen C. Greer, 1403 Standard Life Building, Jackson, Miss. 39201.
CS78-761	9/18/78	Esenjay Petroleum Corp., Suite 750, Bank & Trust Tower, Corpus Christi, Tex. 78477.	CS78-783	9/19/78	Paul L. Wells, Jr., P.O. Box 4604, Jackson, Miss. 39216.
CS78-762	9/15/78	Centennial Oil Co., 1015 Midland Savings Building, Denver, Colo. 80202.	CS78-784	9/19/78	James R. Nickles, P.O. Box 4604, Jackson, Miss. 39216.
CS78-763	9/18/78	Sevarg Company, Inc., P.O. Box 51569, Lafayette, La. 70505.	CS78-785	9/19/78	J. R. Pounds, P.O. Box 991, Laurel, Miss. 39440.
CS78-764	9/19/78	Keilton Estate, P.O. Box 230, Pensacola, Fla. 32591.	CS78-786	9/19/78	Mrs. Bill F. Voorhis, P.O. 590, Raymond, Miss. 39154.
CS78-765	9/19/78	Charles A. Meisner, P.O. Box 1467, Gainesville, Fla. 32602.	CS78-787	9/19/78	A. W. Greer, 1403 Standard Life Building, Jackson, Miss. 39201.
CS78-766	9/19/78	Billy D. Campbell, P.O. Box 254, Purvis, Miss. 39475.	CS78-788	9/20/78	Elf Aquitaine, Inc., 950 Threadneedle, Suite 200, Houston, Tex. 77079.
CS78-767	9/19/78	Marty L. Meisner, 1028 N.W. 91st Terrace, Gainesville, Fla. 32601.	CS78-789	9/20/78	Tomlinson Interests, Inc., 925 Houston Natural Gas Bldg., Houston, Tex. 77002.
CS78-768	9/19/78	Todd O. Meisner, 1028 N.W. 91st Terrace, Gainesville, Fla. 32601.	CS78-790	9/21/78	Vernon R. Drwenski, 2501 S. McKinley, Casper, Wyo. 82601
			CS78-791	9/21/78	NORBOC, Inc., P.O. Box 367, Coushatta, La. 71019.
			CS78-792	9/22/78	Simpson-Mann Oil Producers, P.O. Box 1432, San Angelo, Tex. 76902.
			CS78-793	9/22/78	Big Apple Oil & Gas Association, J & E Drilling & Development-Agent-General Partner, P.O. Box 5003, Trenton, N.J. 08638.
			CS78-794	9/20/78	Chas. A. & Irene F. Burgett, 569 S. 89th E. Avenue, Okla. 74112.
			CS78-795	9/25/78	Deep Reef Industries, 322 Amarillo Building, Amarillo, Tex. 79101.

Docket No.	Date filed	Applicant	Docket No.	Date filed	Applicant	Docket No.	Date filed	Applicant
CS78-796.....	9/22/78	Dernick, Land & Company, a managing entity for 45 individuals and companies, 9225 Katy Freeway, Suite 112, Houston, Tex. 77024.	CS78-819.....	9/29/78	East Kentucky Minerals, Inc. and/or Wm. B. Sturgill, Suite 6-J, Citizens Bank Square, Lexington, Ky. 40507.	CS79-24.....	10/13/78	James M. Watson, 830 Beck Building, Shreveport, La. 71101.
CS78-797.....	9/25/78	Murjo Oil & Royalty Co., 2525 Ridgmar Blvd., P.O. Box 12666, Fort Worth, Tex. 76116.	CS78-820.....	8/23/78	M. Dale Adkins, P.O. Box 5557, Huntington, W. Va. 25703.	CS79-25.....	10/13/78	St. Martin Land Co., P.O. Box 519, Hammond, La. 70404.
CS78-798.....	9/25/78	Samuel Butler, Jr., Trustee-Operator, 3100-1660 Lincoln Street, Denver, Colo. 80202.	CS79-1.....	10/2/78	XTRA Gas Co., 310 Court Street, P.O. Box 555, Hamlin, W. Va. 25523.	CS79-26.....	10/13/78	Inexco Development Co., 1100 Milam Building, Suite 1900, Houston, Tex. 77002.
CS78-799.....	9/25/78	S & S Production Co. Inc., P.O. Box 380, Pampa, Tex. 79065.	CS79-2.....	10/2/78	Intercontinental Petroleum Exploration & Development, Inc., Suite 2000, 600 Jefferson, Houston, Tex. 77002.	CS79-27.....	10/16/78	P. Edward Corrigan, P.O. Box 76, Midland, Tex. 79702.
CS78-800.....	9/25/78	Fourth National Bank of Tulsa, Trustee for Patti Stebbins Wilson, Fourth National Bank, P.O. Box 2360, Tulsa, Okla. 74101.	CS79-3.....	10/2/78	Joaquin Oil Co. Inc., P.O. Box 2147, Jackson, Miss. 39205.	CS79-28.....	10/16/78	Hugh Corrigan III, P.O. Box 3388, Vero Beach, Fla. 32960.
CS78-801.....	9/25/78	Northern Oil and Gas, Inc., 4222 Harry Hines Blvd., Dallas, Tex. 75219.	CS79-4.....	10/5/78	Hugh Corrigan IV, 5520 Drane Drive, Dallas, Tex. 75209.	CS79-29.....	10/16/78	Cooper & Lucier, Inc., 18552 MacArthur Blvd., Ste. 201, Irvine, Calif. 92715.
CS78-802.....	9/25/78	W. R. Edwards, Jr., 4222 Harry Hines Blvd., Dallas, Tex. 75219.	CS79-5.....	10/6/78	Herbert W. Owen, 312 Beck Building, Shreveport, La. 71101.	CS79-30.....	10/18/78	Matthew J. and Claire P. Stacom, 630 Lake Avenue, Greenwich, Conn. 06830.
CS78-803.....	9/26/78	Fay C. Wood, 2406 Sherwood Drive, Enid, Okla. 73701.	CS79-6.....	10/6/78	J. Harper Cox, Jr., 312 Beck Building, Shreveport, La. 71101.	CS79-31.....	10/19/78	Time Oil & Gas Co., P.O. Box 5008, Wichita Falls, Tex. 75307.
CS78-804.....	9/26/78	Larkin O'Hern, 653 Fair Foundation Building, Tyler, Tex. 75702.	CS79-7.....	10/6/78	M. H. Sneed, 312 Beck Building, Shreveport, La. 71101.	CS79-32.....	10/19/78	Engelman-General, Inc., P.O. Box 5008, Wichita Falls, Tex. 75307.
CS78-805.....	9/26/78	William G. Mitsch, Jr. and/or Ann Johnson Mitsch, 2525 Ridgmar Blvd., P.O. Box 12666, Fort Worth, Tex. 76116.	CS79-8.....	10/6/78	Jamar Exploration, Inc., 710 Fisk Building, Amarillo, Tex. 79101.	CS79-33.....	10/19/78	Hexad Oil Co.—1977B, 200 City Natl. Bank Building, Wichita Falls, Tex. 75301.
CS78-806.....	9/26/78	C. Daniel Walker, 6729 Brants Lane, Fort Worth, Tex. 76116.	CS79-9.....	10/5/78	McGinness Oil Co., 920 Woodrow, Wichita, Kans. 67203.	CS79-34.....	10/19/78	J. J. Hudson, Box 67, Cotton Valley, La. 71018.
CS78-807.....	9/26/78	N. R. Price, P.O. Box 85, Smackover, Ariz. 71762.	CS79-10.....	10/10/78	Falcon Energy, Inc., P.O. Box 400616, Dallas, Tex. 75240.	CS79-35.....	10/23/78	RKH, LTD., P.O. Box 1552, Midland, Tex. 79702.
CS78-808.....	9/22/78	Flournoy Production Co., P.O. Box 751, Corpus Christi, Tex. 78403.	CS79-11.....	10/10/78	WHB Exploration, Inc., P.O. Box 103, Shreveport, La. 71161.	CS79-36.....	10/23/78	Steve Jernigan, 2601 N.W. Expressway, Suite 501, Oklahoma City, Okla. 73112.
CS78-809.....	9/25/78	Glenn Cope, P.O. Box 1405, Midland, Tex.	CS79-12.....	10/10/78	Carl W. Swan, 1100 Oil Center Building, 2601 N.W. Expressway, Oklahoma City, Okla. 73112.	CS79-37.....	10/23/78	George N. Hartman, P.O. Box 1452, Midland, Tex. 79701.
CS78-810.....	9/25/78	Albert R. Greer, 221 Petroleum Center Building, Farmington, N. Mex. 87401.	CS79-13.....	10/10/78	Pipeline Energy Exploration, Inc., 800 W. Airport Frwy.—Box No. 6097, Irving, Tex. 75062.	CS79-38.....	10/23/78	Alvareo N. Hartman, P.O. Box 1452, Midland, Tex. 79701.
CS78-811.....	9/26/78	David M. Munson, 1800 First Natl. Bank Building, Dallas, Tex. 75202.	CS79-14.....	10/10/78	Broughton Oil Co., 505 Cravens Building, Oklahoma City, Okla. 73102.	CS79-39.....	10/23/78	The Prospective Investment and Trading Company, Ltd., 1790 One Williams Center, Tulsa, Okla. 74103.
CS78-812.....	9/26/78	David M. Munson, Inc., 1800 First Natl. Bank Building, Dallas, Tex. 75202.	CS79-15.....	10/10/78	Ada Oil Exploration Corp., P.O. Box 844, Houston, Tex. 77001.	CS79-40.....	10/23/78	Heien Flournoy Pope, P.O. Box 1578, Alice, Tex. 78332.
CS78-813.....	9/26/78	Spicknall Enterprises, 8 Lancer Court, Florissant, Mo. 63033.	CS79-16.....	10/10/78	Louis A. Beecherl, Jr., 2750 Bryan Tower, Dallas, Tex. 75201.	CS79-41.....	10/23/78	Betty Flournoy Fields, P.O. Box 1578, Alice, Tex. 78332.
CS78-814.....	9/27/78	J. B. Appling, (Operator), et al., 1005 First Natl. Bank Building, P.O. Box 82, Midland, Tex. 79702.	CS79-17.....	10/10/78	Realitos Energy Corp., 5701 Woodway, Suite 300, Houston, Tex. 77057.	CS79-42.....	10/23/78	Mary Anne Flournoy Guthrie, P.O. Box 1578, Alice, Tex. 78332.
CS78-815.....	9/28/78	Intercity Management Corp., 1622 Guaranty Bank Plaza, Corpus Christi, Tex. 78475.	CS79-18.....	10/10/78	William S. Gripman, 15656 E. Grand Avenue, Aurora, Colo. 80015.	CS79-43.....	10/23/78	L. A. Bradfute, P.O. Box 1578, Alice, Tex. 78332.
CS78-816.....	9/28/78	Indiana Farm Bureau Cooperative Association, Inc., 120 East Market Street, Indianapolis, Ind. 46204.	CS79-19.....	10/10/78	Estate of Herbert E. Hartfelder, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Tex. 75283.	CS79-44.....	10/23/78	W. L. Mathews, P.O. Box 1578, Alice, Tex. 78332.
CS78-817.....	9/28/78	Lucien Flournoy, P.O. Box 751, Corpus Christi, Tex. 78403.	CS79-20.....	10/12/78	Sagadahoc Oil & Gas Corp., 1944 University Avenue, Palo Alto, Calif. 94303.	CS79-45.....	10/23/78	D. E. Weber, P.O. Box 1578, Alice, Tex. 78332.
CS78-818.....	9/29/78	Kleiner Oil, 13128 Trail Hollow, Houston, Tex. 77079.	CS79-21.....	10/12/78	Dee Jay Co., 5295 Galaxie Drive, Jackson, Miss. 39206.	CS79-46.....	10/23/78	L. R. Key, P.O. Box 1578, Alice, Tex. 78332.
			CS79-22.....	10/12/78	Roland Kletke, Rural Route, Alva, Okla. 73717.	CS79-47.....	10/23/78	R. W. Wilson, P.O. Box 1578, Alice, Tex. 78332.
			CS79-23.....	10/13/78	G. W. Deck, Jr., 4000 One Williams Center, Tulsa, Okla. 74103.	CS79-48.....	10/23/78	E. M. Peterson, P.O. Box 1578, Alice, Tex. 78332.
						CS79-49.....	10/23/78	J. E. Jochen, P.O. Box 1578, Alice, Tex. 78332.
						CS79-50.....	10/23/78	F. C. West, P.O. Box 1578, Alice, Tex. 78332.
						CS79-51.....	10/23/78	Aruther W. Glover, 2606 Camarie, Midland, Tex. 79701.
						CS79-53.....	10/23/78	Clover Energy Corp. 2121 Sage Road, Suite 380, Houston, Tex. 77056.
						CS79-54.....	10/24/78	Robert E. Eckels, aka R. E. Eckels, 2101 Youngfield, Golden, Colo. 80401.

Docket No.	Date filed	Applicant
CS79-55.....	10/24/78	Peter M. Mark, General Partner, Mark Oil & Gas, Ltd., 1978-B Program, 1030 Charleston National Plaza, Charleston, W. Va. 25301.
CS79-56.....	10/25/78	Midway Energy Corp., 8401 Connecticut Ave., PH # 3, Chevy Chase, Md. 20015.
CS79-57.....	10/26/78	Vierson Oil & Gas Co., P.O. Box 280, Okmulgee, Okla. 74447.
CS79-58.....	10/27/78	R.B. Bradely, 431 Mayo Building, Tulsa, Okla. 74103.
CS79-59.....	10/23/78	Daymon D. Gilliland and Earl E. Fix, 3010 C Road, Grand Junction, Colo. 81501.
CS79-60.....	10/27/78	Kent E. Phillips Co., 527 Hightower Building, Oklahoma City, Okla. 73102.
CS79-61.....	10/27/78	Walter D. Keleher, 40 Court Street, Boston, Mass. 02108.
CS79-62.....	10/30/78	ENI Exploration Co., 1401 Bank of California Center, Seattle, Wash. 98164.
CS79-63.....	10/30/78	William B. Barnhill, P. O. Box 1354, Roswell, N. Mex. 88201.
CS79-64.....	10/30/78	Lawbar Petroleum, Inc., 10880 Wilshire Blvd., Suite 2005, Los Angeles, Calif. 90024.
CS79-65.....	10/30/78	Stroube Production Co., Inc., 4560 Belt Line Rd., Suite # 224, Dallas Tex. 75240.
CS79-66.....	10/30/78	Otto Corum-Individual, P.O. Box 277, Madisonville, Ky. 42431.
CS79-67.....	10/30/78	Corley Ginther Oil Corp., 4670 Bank of Okla. Tower, 1 Wms. Center, Tulsa, Okla. 74103.
CS79-68.....	10/30/78	James E. Gray, P.O. Box 812, Jal, N. Mex. 88252.
CS79-69.....	10/30/78	Joel M. Carson, P.O. Drawer 239, Artesia, N. Mex. 88210.
CS79-70.....	10/30/78	Mohawk Energy Corp., 2401 Fourth Natl. Bank Building, Tulsa, Okla. 74119.
CS79-71.....	11/1/78	Devon-Smedvig 1973 Oil & Gas, Program Ltd., 3300 Liberty Tower, Oklahoma City, Okla. 73102.
CS79-72.....	11/1/78	O. A. White, Box 41, Lakin, Kans. 67880.
CS79-73.....	11/1/78	Mid-Continent Energy Corp., One Twenty Bldg., Suite 712, Wichita, Kans. 67202.
CS79-74.....	11/1/78	H & R Oil and Gas Co., RFD # 3-Box 23H, Bartlesville, Okla. 74003.
CS79-76.....	11/6/78	Profindex Mineral-Explorationsgesellschaft mbH & Co. Betteilungs-KG, 1122 Southwest Tower, Houston, Tex. 77002.
CS79-77.....	11/6/78	Robert E. Powell, P.O. Box Box 4808, Monroe, La. 71203.
CS79-79.....	11/6/78	Walter C. Smith, 808 Lincoln Tower Building, Denver, Colo. 80295.
CS79-80.....	11/6/78	John J. Shea, Jr., P.O. Box 4049, Memphis, Tenn.

Docket No.	Date filed	Applicant
CS79-81.....	11/6/78	Meredith Mallory, Jr., 105-D Petroleum Center, San Antonio, Tex. 78209.
CS79-82.....	11/6/78	The Andrea Singer Pollack 1974 Trust, et al., 1910 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264.
CS79-83.....	11/6/78	Guardian Exploration, Ltd.—1978A, 1900 Houston Natural Gas Building, Houston, Tex. 77002.
CS79-84.....	11/6/78	Guardian Exploration, Ltd.—1978B, 1900 Houston Natural Gas Building, Houston, Tex. 77002.
CS79-85.....	11/6/78	John Don Looney, 6317 Crab Orchard Road, Unit 8, Building C, Houston, Tex. 77057.

[FR Doc. 78-33539 Filed 12-1-78; 8:45 am]

### [6560-01-M]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1020-21]

### RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to Section 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: The 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from November 20, 1978 through November 24, 1978; the date of submission of comments on draft EIS's as computed from December 1, 1978 is January 15, 1979.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Con-

necticut Avenue, Washington, D.C. 20036.

Date: November 29, 1978.

PETER L. COOK,  
Acting Director, Office  
of Federal Activities.

### DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

### FOREST SERVICE

#### Final

Leesburg Planning Unit, Salmon National Forest, Lemhi County, Idaho, November 22: The proposal consists of the division of the Leesburg planning unit, located in Salmon National Forest, Lemhi County, Idaho. The unit is to first be divided into two major management areas with similar land types, terrain, major drainage and management qualities. These areas will then be further divided into smaller units for management requirements, protection needs, and use and development of various resources within the unit. The entire Leesburg unit is comprised of 86,390 acres, 2,009 of which are privately owned and another 1,584 acres of which are surface rights claims. (USDA-FS-FES(ADM)R4-78-5.) Comments made by: DOC, EPA, USDA, AHP, DOT, HUD, DOI, DOE, State agencies, groups, individuals, and businesses. (EIS Order No. 81246.)

Hebo Planning Unit, Siuslaw National Forest, Lincoln, Tillamook, and Yamhill Counties, Oreg., November 22: Proposed is a plan for the future management of national forest lands within the Hebo planning unit, Siuslaw National Forest, Oreg. Specifically, the objective of this statement is to identify the natural resources, their value to society, and the various proposals for using each resource. Five alternative plans are offered. Adverse impacts common to all five alternatives include alteration of wildlife habitat; construction-related pollution; and increased levels of air and noise pollution. (USDA-FS-R6-FES(ADM)78-3.) Comments made by: DOE, AHP, HUD, USDA, EPA, DOC, State and local agencies, groups, individuals, and businesses. (EIS Order No. 81247.)

### SOIL CONSERVATION SERVICE

#### Draft

Hamilton Creek Watershed, Burnet, County, Tex., November 20: Proposed is a flood prevention plan for portions of the 52,995 acres of the Hamilton Creek Watershed in the city and county of Burnet, Tex. It is proposed that three floodwater retarding structures be installed to protect 231 acres of urban land in the city and 576 acres of agricultural flood plain land. Each retarding structure will consist of a principal spillway and plunge basin, and emergency spillway, a floodwater retarding pool, a sediment pool, and in total will require 172 acres. (USDA-SCS-EIS-WS-(ADM)-78-5-(D)-(TX).) (EIS Order No. 81242.)

East Side Green River Watershed, King County, Wash., November 20: Proposed is a watershed protection and flood prevention plan for the East Side Green River watershed project area in King County, Wash. The remaining work to be done on the par-

tially completed project includes: (1) An accelerated land treatment program on 2,200 acres of agricultural, urban, and other lands; and (2) enlargement and/or realignment of approximately 11.1 miles of existing man-altered stream channels. Five alternatives, all including accelerated land treatment (except no action) also consider: (1) upland detention, (2) additional channels, and (3) nonstructural measures. (USDA-SCS-ES-WS-(ADM).) (EIS Order No. 81239.)

#### U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington D.C. 20314, (202) 693-6795.

#### Final

Harbors and Rivers in the Territory of Guam, Guam, November 24: The proposed improvement is a combination of levee and channel improvements with pumping facilities for localized drainage near the Saylor Street-Agana River crossing in Guam. The plan consists of 1,750 feet of channelization between Saylor Street and Agana Bay, 4,900 feet of levees upstream of Saylor Street, a 360-acre flowage easement within the Agana Swamp, and a pumping plant near the left bank levee at Saylor Street. (Honolulu district.) Comments made by: USCG, DOI, DOC, HEW, USN, AHP, EPA, local agencies and groups. (EIS Order No. 81255.)

Chehalis River, South Aberdeen and Cosmopolis, Grays Harbor County, Wash., November 24: Proposed is a flood control project for Cosmopolis and Aberdeen in Grays Harbor County, Wash. The project consists of a levee system which would protect 1,318 acres of flood plain lands at the head of Grays Harbor. Elements of the project include: (1) Construction of earthen levees, and (2) placement of riprap. The alternatives considered are: (1) no action, (2) flood plain zoning in combination with flood proofing for existing structures, (3) flood plain relocation, and (4) alternate levee alignments. (Seattle district.) Comments made by: DOI, EPA, HUD, DOT, AHP, USDA, DOC, State and local agencies. (EPA Order No. 81256.)

#### Draft supplement

Sacramento River Bank Protection Project, several California counties, November 24: This statement supplements a final EIS filed in June 1976. Proposed is the placement of fill consisting of stone for bank protection at levee erosion sites along the Sacramento River between Collinsville and Chico and in the counties of Butte, Glenn, Colusa, Sacramento, Solano, Sutter and Yolo, Calif. This supplement EIS is for the purpose of exempting the placement of fill material for the project from regulation under the Clean Air Act (Sacramento district.) (EIS Order No. 81259.)

Grand Haven Harbor, Lake Michigan, Ottawa County, Mich., November 24: Proposed is the deepening of the entrance channel and harbor of Grand Haven Harbor in Grand Haven, Ottawa County, Mich. The selected alternative involves dredging the entrance channel to a depth of 29 feet, the harbor to 27 feet, and the development of a new turning basin. The proposed plan also entails the deposition of all polluted materials in an upland site, and the disposition of

unpolluted sediments either at a deep water site in Lake Michigan or used as beach nourishment (Detroit district.) (EIS Order No. 81252.)

Sacramento R., Chico Landing to Red Bluff, Butte, Glenn, and Tehama Counties, Calif., November 24: This statement supplements a final EIS filed in May 1975. Proposed is the placement of fill consisting of stone for bank protection at bank erosion sites along the Sacramento River between Chico Landing and Red Bluff and in the counties of Butte, Glenn, Tehama, Calif. This supplement EIS is for the purpose of exempting the placement of fill material for the project from regulation under the Clean Air Act (Sacramento district.) (EPA Order No. 81260.)

#### ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Peter Cook, Director, Office of Federal Activities, Room WSMW 537, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0780.

#### Draft

Electric Utility Steam Generating Units, Standards, November 24: Proposed is the revision of the existing new source performance standards limiting the emissions of sulfur dioxide from coal fired electric utility steam generators which has been in effect since December 1971. Revisions to the new source performance standards for the emission of particulate matter and oxides of nitrogen from coal-fired electric utility steam generators are also being proposed. Several alternatives, ranging from the retention of the present standard to proposing a very stringent standard, have been considered by the EPA (EPA-450/2-78-007a). (EPA Order No. 81274.)

Contact: Ms. Susan Walker, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2307.

#### Draft

Huron Valley WWT Control System Facilities Plan, Wayne and Oakland Counties, Ill., November 22: Proposed is the construction of the Huron Valley wastewater control system to provide service to portions of Wayne and Oakland Counties, Mich. The project will consist of a regional interceptor sewer approximately 50 miles long and a 49.2 mgd. wastewater treatment plant which would be built adjacent to Lake Erie. Effluent would be discharged via a 10,000 foot outfall sewer to the mid-channel confluence of the Detroit River and Lake Erie. The new treatment facility would provide conventional secondary treatment with phosphorus removal. (EIS Order No. 81249.)

Contact: Mr. Clinton Spotts, Environmental Protection Agency, Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

#### Final

Independence Steam Electric Station, Permit, Independence County, Ark., November 21: The proposed action is the issuance of a new source NPDES permit for wastewater discharge from the proposed Independence Steam Electric Station into the White River. The applicants, Arkansas Power & Light Company, Arkansas Electric Cooperative Corporation (AECC), and the City Water & Light Plant of the City of Jonesboro, proposed to construct and oper-

ate a coal-fired steam electric station in Independence County, Arkansas. It should be noted that the REA has participated in the preparation of this EIS to fulfill the NEPA requirements for guaranteeing REA loan funds for the AECC portion of the project. Comments made by: AHP, COE, DOE, USDA, DOI, DOT, State agencies. (EIS Order No. 81244.)

Contact: Ms. Betty Jankus, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, (415) 556-6695.

#### Draft

Point Source Metro Phoenix, 208 plan, Maricopa County, Ariz., November 24: Proposed are four alternative plans for the management of point source water pollution in the Metropolitan Phoenix Area, Maricopa County, Ariz. These alternatives were developed as part of the Maricopa Association of Governments 208 water quality management plan. The plan presents alternatives which consider various plant locations and the surrounding service areas. (EIS Order No. 81251.)

#### DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308.

#### Draft

Dogwood Park Phase II Subdivision, Bossier County, La., November 24: Proposed is the issuance of HUD home mortgage insurance for the Dogwood Park Phase II Subdivision, Haughton, Bossier County, La. The subdivision will encompass a total of 462.8 acres of land and will be developed with a total of: (1) 899 single family units and 191 patio house units on 411.4 acres, (2) a 14 acre lake, (3) 25 acres of Greenbelt/open space, and (4) 12.4 acres of commercial units. Also included is the consideration of 203 acres of presently nonparticipating lands which are expected to be bought by the developer and incorporated into the project (HUD-R06-EIS-78-47D). (EIS Order No. 81257.)

Pinelake Subdivision, Harris County, Tex., November 24: Proposed is the issuance of HUD home mortgage insurance for the Pinelake Subdivision in Harris County, Tex. The subdivision encompasses approximately 1,786 acres and is expected to consist of approximately 7,650 dwelling units. The proposed project will also include shopping facilities and recreation facilities (HUD-R06-EIS-78-50-D). (EIS Order No. 81254.)

#### Final

Northcliffe Subdivision, Houston, Harris County, Tex., November 20: The proposed action is the approval by HUD of home mortgage insurance for the proposed Northcliffe subdivision. The project site will be located on 228 acres with approximately 4 units per acre in the city of Houston, Harris County, Tex. The units will be composed of single family homes and some commercial reserves and provide accommodations for approximately 3,000 people in 888 dwelling units. The proposal was submitted by Homecraft Land Development, Inc. (HUD-R06-EIS-78-37F). Comments made by: HEW, AHP, USDA, DOI, COE, EPA, DOT, and State agencies. (EIS Order No. 81241.)

*Final supplement*

CBD Urban Renewal Project, Newburyport Essex County, Mass., November 20: This statement supplements a final EIS filed in June 1975 concerning the Central Business District (CBD) urban renewal project for Newburyport, Essex County, Mass. The purpose of the supplement is to comply with a stipulation of dismissal filed with the U.S. District Court, Mass., to provide data concerning possible archaeological sites within the waterfront parcels. The project proposed the redevelopment of the Newburyport CBD from commercial and retail use which would impact the Market Square historic district (HUD-R01-EIS-78-OIS). (EIS Order No. 81240.)

## SECTION 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the Office of the Appropriate Local Executive. Copies are not available from HUD.

*Final*

Lincoln Park Neighborhood Revitalization, Denver County, Colo., November 20: Proposed is the intensive, housing-oriented revitalization of Lincoln Park neighborhood located in Denver County, Colo. with the use of HUD/UDAG funds. Activities of the project feature: (1) Elimination of blighting industrial uses, business encroachment and speculation in the neighborhood, (2) discouraging out-migration of middle-income households through near downtown development, (3) improvement of shopping services and living environment, and (4) conservation of the existing housing stock. Comments made by: EPA, HUD, State and local agencies. (EIS Order No. 81237.)

## DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

## BUREAU OF SPORTS FISHERIES AND WILDLIFE

*Draft*

Mammalian Predator Damage Management, Livestock, several counties, November 22: Proposed is a predator damage control program as presently conducted in the States of Arizona, California, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Oklahoma, Texas, Utah, and Wyoming. The predator species controlled include coyote, bobcat, mountain lion, bear and fox. These animals are controlled primarily to alleviate damages caused by predators to domestic animals. The program is conducted on a request basis which initiates an investigation and if warranted, the removal of the predator, precautions are taken to protect humans and domestic animals from the toxicants or devices used. (DES-78-49.) (EIS Order No. 81248.)

## DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

## FEDERAL HIGHWAY ADMINISTRATION

*Draft*

IA-100, from IA-149 to IA-94, Linn County, Iowa, November 21: Proposed is the construction of IA-100, a two-lane rural facility, from IA-149 to IA-94 in Linn County, Iowa. The segment of the project between IA-94 and Usher's Ferry Road would consist of a rural four-lane divided facility. The section between Usher's Ferry Road and I-380 would be an urban four-lane divided facility. Right-of-way acquisition would be necessary for any of the four build alternatives which are considered in addition to no-build. The total length of the project would vary from 11.2 to 8.9 miles depending on the route selected. (FHWA-Iowa-EIS-78-4-D.) (EIS Order No. 81245.)

U.S. 23, Tennessee State Line to U.S. 19, Madison County, Tenn., November 24: Proposed is the improvement of U.S. 23 from the Tennessee State line to the intersection of U.S. 19 in Madison County, Tenn. Alternative corridors along the existing alignment and on new locations are being considered. Depending upon the alternative selected, the project length will be between 9.2 and 10.4 miles long. The proposed project is a portion of corridor B of the Appalachian development highway system and is classified as a principal arterial in the regional thoroughfare plan. (FHWA-TN-EIS-78-05-D.) (EIS Order No. 81253.)

NY-47, Rochester Outer Loop, Greece, Monroe County, N.Y., November 22: Proposed is the construction and/or extension of three roads in the town of Greece, Monroe County, N.Y. The plan proposes extension of NY-47 with its present terminus with Ridge Road for 4.4 miles to the Lake Ontario State Parkway. The freeway will be located on existing right-of-way. The project also provides for the extension of the Dorsey Road, with four travel lanes for 1.95 miles, and Fetzner Road, with two travel lanes, for 1 mile. (FHWA-NY-EIS.) (EPA Order No. 81250.)

*Final*

Death Valley Road, CA-168 to Death Valley National Monument, Inyo County, Calif., November 21: Proposed is the improvement of Death Valley Road, RS-W658, which extends about 62.4 miles from S.R. 168 near Big Pine to the northerly boundary of Death Valley National Monument near Ubehebe Crater in Inyo County, Calif. Plans call for the pavement of portions which are now gravel, realignment of isolated sections, and upgrading of the roadway to increase safety. The project will displace 44 acres of vegetation and wildlife, and will increase noise, litter and secondary air pollution. (FHWA-CA-EIS-77-03-F.) Comments made by: DOI, COE, USDA, State agencies, and groups. (EIS Order No. 81243.)

U.S. 51, Fifth Avenue to Lakeview Drive, Rochelle, Ogle County, Ill., November 20: The proposed FHWA action is the financing with federal-aid matching funds of all or part of the costs of constructing a railroad-highway separation and necessary approaches of U.S. 51 in the city of Rochelle. The project begins near the intersection of Fifth Avenue and Seventh Street, proceeds in a southerly direction terminating near Lakeview Drive. This project is about 0.5 mile in length and is located in Ogle County. The new facility is planned as a two-lane bridge structure, and includes the construction or reconstruction of several intersections and adjacent side streets.

(FHWA-ILL-EIS-78-01-F.) Comments made by: USDA, EPA, DOI, and State agencies. (EIS Order No. 81238.)

## INFORMATION REPORT

The EPA has received the following report which provides supplemental information on proposals which have fulfilled the NEPA process. Copies of the report are available from the originating agency upon request.

Contact: U.S. Army, Corps of Engineers, Dr. C. Grant Ash, Office of Environmental Policy, Attn: DARN-CWR-P, Office of the Chief of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20310, 202-693-6795.

EPA No.	Date received	Title
81258	Nov. 24, 1978.	Response and clarification to comments on the final EIS—Isle of Hope Marina, Skidaway River Isle of Hope, Chatham County, Ga. (Savannah District).

[FR Doc. 78-33769 Filed 12-1-78; 8:45 am]

## [6560-01-M]

[FRL 1008-3; OTS-021001]

TOXIC SUBSTANCES CONTROL ACT;  
REPORTING OF HEALTH AND SAFETY STUDIES

## Denial of Citizens' Petition

AGENCY: Environmental Protection Agency.

ACTION: Denial of Citizens' Petition.

SUMMARY: On September 12, 1978, the Manufacturing Chemists Association (MCA) filed a citizens' petition under § 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2620. MCA requested that EPA repeal or amend the health and safety reporting regulations promulgated under § 8(d) of TSCA (43 FR 30984, July 18, 1978), and stay the rule pending administrative reconsideration. The Administrator has denied this petition, and a summary of MCA's points and the full text of EPA's response appears below in the "Supplementary Information" section.

## FURTHER INFORMATION CONTACT:

Industry assistance office, office of toxic substances (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 800-424-9065.

SUPPLEMENTARY INFORMATION: The denial letter appearing below was sent to the Manufacturing Chemists Association by EPA.

Mr. EDMUND B. FROST,  
Manufacturing Chemists Association,  
Washington, D.C.

DEAR MR. FROST: On September 8, 1978, representatives from your organization and several chemical firms met with staff from the Office of Toxic Substances to submit oral and written comments on the health and safety reporting regulations published on July 18, 1978 (43 FR 20984-20988) under § 8(d) of the Toxic Substances Control Act (TSCA). At that time, MCA requested that EPA repeal those regulations or administratively stay them for ninety days. On September 12, 1978, you subsequently filed a petition under section 21 of TSCA to repeal or amend the regulations.<sup>1</sup> I am hereby informing you that EPA is denying MCA's request for reconsideration of the rule.

MCA first asked Mr. Jellinek to reconsider and/or rescind the rule over seven weeks after promulgation, three weeks after the effective date, and only ten days before the industry was required to comply with the regulations, on the basis of draft comments that could not receive the benefit of public scrutiny. MCA has an obligation, as does any other interested person, to file all comments in a complete and timely fashion, particularly when such drastic administrative relief is sought. We do not regard the citizens' petition provisions as a means of escaping the responsibility to submit timely comments or as an opportunity to delay the implementation of final administrative actions. Where late comments indicate a clear substantive error in a rule, we will exercise our discretion and propose amending it but where comments only suggest that EPA could have exercised its judgment to reach a different result, EPA will not revise a rule except in exceptional circumstances. Were EPA not to take this position, rulemaking proceedings would never obtain necessary finality.

While the citizens' petition provisions of TSCA § 21 do not require EPA to respond to a petition until ninety days after its receipt, we have attempted at your request to evaluate and respond quickly to MCA's comments. As you know, Mr. Jellinek has already granted your request to extend the deadline for submission of studies for thirty additional days in order to accord with the time period announced at proposal. The notice of this extension appeared in the September 15 FEDERAL REGISTER. We have evaluated the other matters you raised and find them without merit.

The following responds to your specific comments:

1. *MCA Comment: Not all of the public comments were available to EPA on the date of the final Work Group session. The rule-making is therefore incomplete.* All comments on the proposal were reviewed and evaluated by the Office of Toxic Substances (OTS) prior to promulgation of the final rule, regardless of whether the comments were submitted during or after the public comment period. It is neither required nor necessary that the work group review each comment; it is the responsibility of the lead office (in this case, OTS) to ensure that all views are considered in recommending final actions for my approval.

The public file contains all such comments on the proposal.

<sup>1</sup>Where the September 8 submission to Mr. Jellinek and the September 12 submission to me differ, I assume the latter to be more authoritative.

2. *MCA Comment: The definition section is confusing and should simply incorporate by reference the definitions in the TSCA.* We have rejected this comment for two reasons. First and foremost, MCA failed to raise these objections prior to promulgation, even though the definitions remained substantially the same throughout the rulemaking. Indeed, MCA itself on September 8th suggested that additional definitions be added. Secondly, we do not regard these definitions as confusing, and MCA has failed to explain the basis for its conclusion.

3. *MCA Comment: The broad definition of "health and safety studies" in TSCA should be circumscribed for the purpose of this regulation to explicitly exclude categories of health and safety studies which are not relevant to the purpose of the regulation.* We do not agree that the rule should be circumscribed; we consider all categories of health and safety studies relevant to the purpose of the regulation. As explained in the preamble, the proposed rule, which required listing and submission of studies for only those effects nominated by the Interagency Testing Committee (ITC) for testing, was changed in response to comments from the public and further consideration within EPA. Because any study of an effect of a chemical on health and/or the environment is useful in assessing the potential health and safety of the substance, and therefore the need for further testing, the rule now requires the submission of all health and safety studies relating to the chemicals named by the ITC. While we recognize that each study that is submitted may not be ultimately useful, it is necessary to see the data to assess its relevancy. Moreover, while there is a cost to itemizing and/or submitting such studies, this obligation is imposed to avoid the far greater cost of requiring needless testing where there are already existing studies. The expense of providing the data subject to this rule is considered preferable to the costs the industry would incur where such data required to be generated anew under § 4, and the strain that such testing would place on this country's scarce laboratory facilities and scientific resources.

We do not distinguish as you do between direct and indirect effects, nor do we think such a distinction is meaningful. Consequently, we have not excluded physical chemistry studies from this rule through the granting of a § 8(d)(1)(C) waiver, as MCA feels we should have done. We believe that physical chemistry data provide significant basic information about the interaction of a chemical with its environment, the likely exposure potential of the chemical and its relationship to other chemicals having known toxic effects.

You cite boiling point and vapor pressure as examples of data EPA does not need, yet in fact chemicals with low boiling points and high vapor pressures are more likely to be released into the atmosphere and result in significant exposure than chemicals with lower pressures and higher boiling points. Similarly, solubility and partition coefficient data are critical indicators of the likelihood that a chemical will be absorbed and retained in human tissue as a residue. Hence, such data are clearly relevant to the agency's assessment of exposure and/or hazard potential. Moreover, the requirement to submit such data is not unduly burdensome since most physical chemistry data are found in the scientific literature for

these chemicals and therefore do not have to be submitted. (See § 730.5(b)).

MCA has also raised the question of whether routine industrial hygiene surveys and environmental monitoring are health and safety studies. EPA's response is that studies of a chemical substance, regardless of the label attached to them, are health and safety studies when they contain data that have been aggregated and/or analyzed in such a way as to provide insight into the possibility that the substance in question adversely affects or does not affect health or the environment. Thus, epidemiological studies and occupational or environmental exposure studies would be considered health and safety studies. Data reflecting individual measurements of occupational or environmental conditions or individual observations or examinations of employees would not be considered health and safety studies, unless they are aggregated or analyzed as described above or unless they constitute underlying data for studies which are subject to reporting. Manufacturers may, of course, contact OTS to resolve doubts about the status of particular studies.

In future § 8(d) rulemaking, EPA will review its experience with this first rule and consider at that time whether the Administrator should waive the requirement to submit every category and kind of health and safety study.

4. *MCA Comment: This rule should apply only to persons currently engaged in the manufacture, processing or distribution of chemicals. It should not apply retroactively to those who have done so since January 1, 1975.* We disagree with this comment. It is first necessary, though, to clarify that § 8(d) requires two kinds of reporting: (1) listing of health and safety studies, and (2) submission of copies of such studies. EPA's legal authority differs according to whether lists or copies are required to be submitted and, accordingly, it is essential to distinguish between the two types of requirements in this discussion.

Section 8(d)(2) clearly permits EPA to require any person to submit a copy of any study in his possession. Hence, there is no question that EPA can require anyone who has manufactured, processed, or distributed a chemical for commercial purposes since January 1, 1975 to submit studies in his files. Though we could have required anyone who has ever engaged in the above activities to comply with the reporting requirement (as was suggested by two commenters), EPA concluded that obtaining data from only those persons who have done so since January 1, 1975 would be sufficient.

Section 8(d) also permits EPA to require any person who manufactures, processes, distributes in commerce or proposes to manufacture, process, or distribute in commerce a chemical substance or mixture to list health and safety studies conducted or initiated by that person on that substance or mixture at any time, and studies known or reasonably ascertainable by such person. Section 730.5(a)(1) as promulgated in the July 18, 1978, FEDERAL REGISTER implemented this authority by requiring any person who has engaged in such activities since January 1, 1975 to submit lists for each chemical listed in § 730.4 which he has produced or distributed since January 1, 1975. This requirement was changed from proposal, at which time the requirement extended back to January 1, 1977.

MCA objects to the 1975 date on the grounds that this imposes a retroactive reporting requirement on persons who are not "currently" engaged in the manufacture, processing, or distribution in commerce of the listed chemicals (or "currently" proposing to do so). Since MCA did not comment on the proposed 1977 cut-off, we assume the objection is only to the inclusion of the January 1, 1975 to January 1, 1977 period in the requirement to list studies.

As was explained in the preamble for the final rule, the date in the final rule was changed to be consistent with the inventory reporting regulation issued under TSCA § 8(a), which covers all chemicals manufactured for commercial purposes since January 1, 1975. Since such chemicals are being manufactured now or could be manufactured at any time in the future without § 5 notification, knowledge of the existing data base on them is critical in order to decide whether to require testing now. We believe it is both necessary and reasonable to require any one who has recently produced or distributed, or proposed to produce or distribute, one of the named chemicals (i.e., since January 1, 1975) to submit studies to us.

Furthermore, we are not required to limit the requirement to list studies to only those persons engaging in production or distribution of the chemicals at this moment or this year. Though the present tense is used in both § 8(d) and § 8(b)(1), the fact that Congress found it necessary to exclude chemicals which ceased to be manufactured more than three years before the effective date of the inventory rule from the inventory demonstrates that the term "is manufactured" was not considered to apply only to the precise date of the publication of the inventory, and that, indeed without the special exclusion, the inventory would apply even further back. Similarly, we believe "manufactures, processes, and distributes" as used in § 8(d) includes, at a minimum, persons who have manufactured, processed, and distributed chemicals since January 1, 1975.

Finally, since § 8(d)(1) specifically provides that persons must list studies conducted or initiated for them "at any time," it seems unlikely that Congress gave EPA the authority to require listing of all studies ever conducted or initiated by or for such persons whatever their date of completion but yet sought to exempt persons who manufactured the chemical as recently as three years ago from having to list pertinent studies.

5. *MCA Comment: Respondents should be required to report only on those chemicals which they actually manufacture, process or distribute in commerce, and not all chemicals listed in § 730.4.* The proposed rule required persons to list and submit copies of studies for all chemicals subject to the rule, regardless of whether the respondent manufactured, processed, or distributed one, some, or all of the chemicals. The requirement for a person to list studies on chemicals he does not produce or distribute was dropped in the final rule, but the requirement to submit copies remained as proposed. We infer, therefore that MCA's concern is addressed to the latter requirement that a respondent who has manufactured, processed, or distributed any one of the ten chemicals or categories of chemicals on the ITC list since January 1, 1975 (see § 730.4) must submit copies of reports in his possession for all such chemicals.

This requirement is well within our authority. As discussed previously, § 8(d) authorizes the Administrator to obtain copies of studies from any person in possession of them, regardless of whether such person ever manufactured, processed, or distributed the chemical. See § 730.7 of the regulation and TSCA § 8(d)(2). We are, however, not requiring everyone in possession of a study to submit a copy since many persons, particularly those in the academic community, are unlikely to be aware of an obligation to do so. Such persons must submit studies only if requested to do so by letter pursuant to § 730.7.

The requirement that firms already subject to the rule submit studies on all of the ITC chemicals should not be overly burdensome; industry representatives have indicated that relatively few studies will have to be unearthed. Moreover, it is reasonable to require persons who are already required to search their files for tests relating to one chemical to search for studies relating to additional chemicals. Such persons are already on notice of the rule, familiar with its requirements, and devoting resources to a search.

6. *MCA Comment: It is not clear from § 730.5 who must report. Persons who must report under this rule should not be required to make presumptions about other companies' reporting responsibilities, nor should they be required to make inquiries of those other companies.* The proposed rule required persons to submit all studies concerning the ITC chemicals contained or referenced in their files. The final rule offers a firm the alternative of not submitting studies in a firm's files not conducted or initiated by or for that firm which it knows will be submitted by another person subject to the rule. This option was suggested by Diamond Shamrock Corporation as a potential means of reducing the reporting burden and lessening duplication. There is no requirement to make presumptions or direct inquiries to another person; any firm may send in all the studies in its possession.

We believe § 730.5 is clear and accurately reflects our intent to require all persons described in § 730.3 to submit studies except as exempted under § 730.5(a)(2)(ii) and § 730.5(b).

7. *MCA comment: EPA should not require copies of health and safety studies from persons—such as universities, research firms, or consultants—that have contractual relationships with manufacturers, processors or distributors of a chemical, without first affording those manufacturers, processors or distributors the option of submitting the studies themselves. EPA should permit manufacturers, processors and distributors to make business confidentiality claims for such data.* This rule does afford manufacturers, processors and distributors the option of submitting the studies themselves. However, if the company does not possess a copy of the study or does not acquire and submit a copy to EPA in response to this regulation, we reserve the right to acquire the study directly from the contractor. As a courtesy, however, to the sponsoring firm, we will contact it by phone or letter to inform the firm that we intend to obtain the study from the contractor unless the firm furnishes it to EPA within a specified number of days. If the firm fails to do so, and we contact the contractor pursuant to § 730.7, the contractor is under an independent obligation to comply.

Any person submitting a health and safety study may make a business confidentiality claim for such data under § 730.8. However, if the manufacturer is concerned about preserving confidentiality, it is up to him either to submit the study himself with a claim of confidentiality or to arrange for the contractor to submit and substantiate such claims.

8. *MCA Comment: The phrase "propose to manufacture, process or distribute in commerce" appearing in § 730.3 is not sufficiently definite and could give the impression that persons engaging in wishful speculation must report.* The term "proposes to manufacture, . . ." appears in the statute and in both the proposed and final rules. The comments submitted on the proposed rule did not indicate that the term was considered confusing or in need of further clarification. Companies in doubt as to whether they are subject to the § 8(d) rule may contact EPA with any specific questions.

A company "proposes to manufacture . . ." a product before the ultimate decision is made to market it. That point at which a company may be said to enter the "proposal" period may require some subjective judgment. At this point in time we lack sufficient experience to further define when a company "proposes" to manufacture. In future rulemakings, we may be able to provide more specific guidance. However, companies are protected from arbitrary actions by EPA under this language since any enforcement action is reviewable by the courts. EPA has neither the intention nor the resources to bring actions where there is little or no hard evidence of proposal to manufacture.

It is also worthy of note that it is in a company's interest to submit a study under § 8(d) in order to avoid the possibility that a § 4 proceeding would be initiated that may duplicate such study.

9. *MCA Comment: Reports of health and safety studies should not be required for any chemicals within the listed categories that are not currently manufactured, processed or distributed in commerce.* We found MCA's comments to be very unclear and consequently had difficulty being responsive to the concerns MCA intended to raise. We are particularly confused about MCA's use of the undefined term "non-commercial." If this term is intended to imply that § 4 does not apply to "non-commercial chemicals," we disagree. Section 4(a) does not distinguish between, or utilize the concept of, commercial and non-commercial chemicals.

Additionally, even if MCA's undefined class of "non-commercial" chemicals were not covered by § 4, data on such chemicals are still pertinent for § 8(d) purposes since studies of the chemical and physical properties and exposure potential of one chemical (be it commercial or non-commercial) are often useful in evaluating other comparable chemicals, including other chemicals that are categorized in a similar manner. (For instance, information on one chemical can provide relevant information on bioactivity and the types of testing feasible for structurally related chemicals.)

10. *MCA Comment: The second sentence in the quoted material in the correction that appeared in the Federal Register on August 16, 1978—"Mixtures which contain only very small amounts of a substance whose effects are masked need not be submitted"—should be deleted. If it is not deleted, the words*

"Studies of" should be inserted before the first word. We believe that the sentence you quote serves a useful purpose in further clarifying the circumstances under which studies of mixtures need not be submitted, and that additional guidance is not needed at this time. Moreover, since you say twice that you agree with the August 16 notice containing that sentence, we fail to understand why you have asked us to change the language.

The omission of "studies of" in the sentence you refer to was a typographical error and will be corrected in a FEDERAL REGISTER notice.

11. *MCA Comment: The definition of "substance" at § 730.1(c) removes the differentiation in § 4(a) of TSCA between a chemical substance and a mixture of chemical substances. The definition should be deleted. Further, reports concerning mixtures should not generally be required. Studies concerning mixtures can be subject to this regulation on either of two grounds. First, the list of chemicals recommended by the ITC for testing includes both chemical substances and mixtures. Thus, mixtures designated by the ITC and listed in § 730.4 as chemicals to which the rule applies are subject to the identical requirements as chemical substances designated by the ITC and listed in § 730.4. However, mixtures which are not listed in § 730.4 but which contain chemical substances designated in § 730.4 are not covered by the rule unless the study of the mixture relates to a chemical substance listed in § 730.4 (see § 730.5(a)(1)) and reflects the effects of that substance. (It is to the latter obligation that the FEDERAL REGISTER clarification is addressed, and you have stated that you regard that policy as reasonable.)*

MCA has expressed concern that EPA has obliterated the § 4(a) distinction between chemical substances and mixtures. However, the fact that we require the submission of some studies on mixtures under § 8(d) does not, by any means, necessarily indicate that EPA will require testing for those mixtures or treat them under § 4 in the same manner as chemical substances. Section 4(a)(2) permits us to promulgate test rules for mixtures only if the effect of the mixture on health and environment cannot be "reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture." The statutory prerequisites and considerations are different under § 8(d), however. There, submission of all pertinent data relating to the effects of a chemical substance, alone or in a mixture, is needed to decide what testing is necessary and under what circumstances.

The shorthand term "substance" to which you object is used in the rule only for convenience to avoid repeating "chemical substance and mixture" throughout the rule, and, as explained above, does not reflect a substantive policy decision to treat them the same. Since the two terms would have been used together throughout the rule, the Agency saw no reason not to use one word instead of four.

12. *MCA Comment: Failure to comply with the instructions for submitting confidential information should not constitute an automatic waiver of the opportunity to make a claim of confidentiality. This is overly punitive. As was indicated in our response to Comment 8 in the Appendix to the rule, our FOIA procedures do not require us to double check with data submitters if they*

fail to comply with our submission procedures. However, as a matter of policy, EPA will check back with data submitters before disclosing or releasing data marked "confidential" when we discover that only a single copy of a study marked as confidential is available and that the required second copy with the confidential information deleted is missing.

13. *MCA Comment: Section 730.8(c)(1) incorrectly refers to § 14(b) of the TSCA. Section 14(b) does not require disclosure of information, but simply does not prohibit disclosure of certain information. The rule should leave open the possibility of maintaining confidentiality under provisions of FOIA § 552(b) other than § 552(b)(4). By quoting the portion of the rule relating only to claims of confidentiality under the FOIA 5 U.S.C. § 552(b)(4) exemption (trade secrets, confidential commercial information), MCA erroneously implies that the final rule would not permit exemption claims under other sections of the FOIA. In fact, as the preamble indicates, EPA will duly consider claims under these other sections of the FOIA. This will be done in accordance with EPA's FOIA rules (40 CFR Part 2, as amended by 43 FR 39997, Sept. 8, 1978).*

As you are undoubtedly aware, EPA must disclose health and safety studies upon request unless they would disclose confidential process information or the composition of a mixture, or unless they are exempted under an FOIA provision other than 5 U.S.C. § 552(b)(4). EPA has no discretion in this matter; Section 14 states that if data consist of health and safety studies as described in § 14(b)(1), EPA may not use § 552(b)(4) as a reason for not disclosing or permitting access to such data. Consequently, EPA's confidentiality policies reflect that statutory policy. We are bound, of course, to respect the confidentiality of information described in the last sentence of § 14(b)(1)(A) and will follow our FOIA procedures in doing so.

14. *MCA Comment: The section on confidentiality claims procedures is incorrectly referred to on page 30986 of the Federal Register notice, first column, second paragraph, fourth line. Section 730.8 should replace § 730.7 This error will be corrected in a FEDERAL REGISTER notice.*

#### CONCLUSION

The major points raised by MCA lack the substantive merit and/or timeliness to warrant repeal or substantial amendment of the rule. We have agreed, however, to respond to some of MCA's concerns about confidentiality and to correct two typographical errors that appeared in the FEDERAL REGISTER. The other points are minor and would not warrant reconsideration under any circumstance. We will, however, consider all of MCA's comments in drafting the next § 8(d) rule if MCA would like us to do so.

A formal publication of the denial of this petition will appear in the FEDERAL REGISTER shortly.

Sincerely,

DOUGLAS M. COSTLE,  
Administrator.

Dated: November 22, 1978.

[FR Doc. 78-33724 Filed 12-1-78; 8:45 am]

[6820-27-M]

## OFFICE OF THE FEDERAL REGISTER

### PROPOSING EDUCATIONAL PROGRAM ON HOW REGULATIONS ARE MADE

#### Request for Comment

AGENCY: Office of the Federal Register.

ACTION: Request for comment.

SUMMARY: This Office is considering the development of an educational program that would explain how the Federal Government makes regulations. This program is proposed for people who need to know more about how Government agencies make regulations. The program would describe the process the Government uses to develop its regulations and would emphasize the opportunities members of the public have to participate in making the regulations.

DATE: Comments should be received on or before February 5, 1979.

ADDRESS: Send written comments to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

#### FOR FURTHER INFORMATION:

Martha Girard, Director, Executive Agencies Division, Office of the Federal Register. Phone: 202-523-5240.

#### FEDERAL REGISTER NOTICE INVITING COMMENT ON PROPOSED PROGRAM ON THE RULEMAKING PROCESS

For the past three years the Office of the Federal Register has conducted an educational program for persons who must use the FEDERAL REGISTER as an information source and a separate program for persons who write regulations published in the FEDERAL REGISTER. Based on interest shown by participants in these programs, we are considering designing a new program with a primary focus on the elements of the rulemaking process.

The public is increasingly interested in the subject of regulations—not only with the quantity and quality of regulations, but interested in *how* agencies make regulations and *how* the public can effectively participate and influence the process.

Tentative plans for a course in the rulemaking process include the following:

1. What are the procedures agencies use in their regulations development process?
2. How can the public follow what an agency is doing in a rulemaking proceeding?
3. How and when can the public get involved in a rulemaking proceeding?

4. What are some problems agencies face in making rules?

5. What trends are emerging (from Executive, Legislative, and Judicial actions) concerning the nature of rule-making.

To evaluate the potential audience and the need for this type of program, we are seeking public comment. Commenters on this proposed program of instruction on how agencies make rules might address themselves to these and other issues:

1. What should the primary objectives of the course be?

2. What specific topics should the course include?

3. At whom should the course be directed?

4. What format should the course have?

5. Where should the course be conducted?

6. What materials should be used?

7. Should there be a general course with specific follow-on sessions devoted to specific agency procedures—if so which agencies?

Your comments on both the need for the program outlined above and the specifics of a program are welcome and will be carefully considered in our future planning.

FRED J. EMERY,  
Director of the  
Federal Register.

NOVEMBER 27, 1978.

[FR Doc. 78-33733 Filed 12-1-18; 8:45 am]

[6820-34-M]

### GENERAL SERVICES ADMINISTRATION

#### IMPLEMENTATION OF EXECUTIVE ORDER 12044, IMPROVING GOVERNMENT REGULATIONS

Developing, Simplifying, and Reviewing GSA  
Regulations

AGENCY: General Services Administration.

ACTION: Final report on GSA procedures.

SUMMARY: The General Services Administration (GSA) has revised its procedures for developing regulations. The changes follow the guidelines in Executive Order 12044 (43 FR 12661, March 24, 1978). We expect that our changed procedures will result in regulations that are written more clearly and that enable us to meet our legislative goals without unnecessarily burdening the public.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John T. Gilmartin, Director, Paper-

work Management Division, 202-566-0857.

**SUPPLEMENTARY INFORMATION:** On May 25, 1978, GSA published for public comments (43 FR 22612) our plans for implementing Executive Order 12044. We requested that interested persons submit comments on the proposal by July 25, 1978.

#### EVALUATION OF COMMENTS

The Department of Justice was the only responder to the proposal. The Department recommended that:

1. No proposed regulation be considered non-significant if it will have a disparate impact on the basis of sex;

2. The criteria for review of existing regulations be modified to require the amendment of unnecessary or inappropriate gender-based terminology in existing regulations; and

3. All proposed new regulations be reviewed to eliminate unnecessary or inappropriate gender-based distinctions.

We agreed with these recommendations and have modified our report accordingly.

#### CHANGES TO GSA'S PROPOSAL

Section 1 of the report is modified to reflect organizational changes that took effect after the proposal was published. Sections 3, 4, and 6 are revised to incorporate recommendations from the Department of Justice.

The final report reads as follows.

#### FINAL REPORT

##### SECTION 1. GSA'S STRUCTURE AS IT PERTAINS TO REGULATIONS

GSA is the business manager for Government agencies. Our regulations are designed to help agencies by giving them procedures to follow in areas such as managing their computer operations, making sure that they are prepared to function during emergencies, using and disposing of their real and personal property, buying their supplies, managing their records, and getting office space in buildings.

The Administrator of General Services signs all GSA regulations. To help in handling administrative and legal questions are GSA's two staff offices, the Office of Controller-Administration and the Office of General Counsel. GSA's operating arms, which are called services, develop most of our regulations. The six services are the Automated Data and Telecommunications Service, the Federal Preparedness Agency, the Federal Property Resources Service, the Federal Supply Service, the National Archives and Records Service, and the Public Buildings Service.

Each service and staff office is headed by an official who is directly responsible to the Administrator for

carrying out GSA's functions and missions. In this document we will be referring to the eight unit heads as Commissioners, to the eight units as services, and to each office within a service that develops or writes a regulation as the program office.

#### SECTION 2. PRESENT METHOD OF DEVELOPING REGULATIONS

Our basic philosophy in developing regulations is that experts in the subject matter should write the regulations, then experts in writing (directives analysts) should review and analyze the regulations before they are issued. Our directives analysts have no special knowledge in the technical fields of the regulations. We feel that the strong point of this type of a system is that the subject matter experts can make sure that the regulations are necessary and technically accurate, and the directives analysts can see whether the regulations are understandable to individuals who do not have a background in the field covered by the regulations.

We have set up a strict control system to make sure that we meet our target dates for issuing regulations. The heart of the system is a central control unit, which is a part of the Office of Controller-Administration. Each of the eight services has a corresponding control unit headed by a clearance officer. The central control unit and the clearance officers work together to help program offices develop and write regulations.

When employees in a program office are ready to start developing a regulation, they are required to discuss the proposal with representatives of each service that is responsible for a regulatory area that might be affected by the proposal. All proposed regulations must be discussed with the Office of General Counsel. After the program office has discussed the proposal with affected services and reached preliminary agreements on what should be included in the regulations, the program office drafts the proposed regulation and sends it to its clearance officer. At this stage of the process, clearance officers have a certain degree of latitude on how to proceed. The minimum requirements for clearance officers follow.

1. Set up a control record for the proposal.

2. Analyze the proposal to make sure that the regulation is necessary and that it does not conflict with or duplicate existing regulations.

3. Make sure that the proposal will be sent for review to affected services within GSA, to other agencies and the public if necessary, to the Office of General Counsel, and to the directives analysts in the central control unit.

4. If the proposal will require someone to fill out a report, make sure that background information and supporting documents have been prepared. (For example, if we want to start a new report that the public will fill out and return to us, we must request permission from the Office of Management and Budget (OMB). OMB will review our request to see whether the report is needed, whether it is unnecessarily burdensome, how many individuals are affected, and similar considerations.)

5. If the proposal calls for a new form, notify the forms experts in the central control unit. (The forms experts will review the proposed form for items similar to the ones for reports.)

6. If the proposal will have a major effect on the quality of the environment, contact our environmental affairs division so that they can make sure the proposal follows rules that have been set up to protect the environment.

7. If the proposal affects State or local governments, make sure that the affected governments are notified and have a chance to comment on the proposal in accordance with the Presidential Memorandum For The Heads Of Executive Departments And Agencies dated March 23, 1978, and with the Federal Advisory Committee Act.

**NOTE.**—Several services have gone a step further with these minimum requirements by setting up a regulation writing unit in the service. These writing units rewrite the rough draft before sending it to the central control unit and other services for review.

After completing steps 1 through 7, the clearance officer decides whether the proposal will be published for public comments in the **FEDERAL REGISTER**. (Most GSA regulations are exempt from the part of the Administrative Procedure Act that requires agencies to publish proposed rules. However, we have been publishing proposed rules voluntarily when we think that the public may be interested and when we are not required by the Congress or the courts to meet a specific deadline for our final rules.) If the proposal will be published for comments, the clearance officer sends it to the Commissioner. If he or she approves the proposal, the Commissioner signs it and sends it to the central control unit, which then forwards the document to the **FEDERAL REGISTER**.

After receiving and evaluating comments from other agencies and the public on its proposal, the program office makes the necessary changes to its draft regulation. The program office sends copies of the revised draft to the clearance officers of the services that might be affected by the regulation, to the Office of General

Counsel, and to the central control unit.

Each clearance officer who receives a copy of the draft decides which units within the service should comment on the draft. The Office of General Counsel checks to see whether the program office has followed the advice from preliminary discussions and whether the draft has been changed to a point where we are violating a law. The central control unit has a professional editor, who checks the draft for correct word use, punctuation, understandability, and similar items. The editor then gives the draft to the directives analysts in the central control unit.

The directives analysts review regulations from all of the services. Therefore, they generally have an overview of GSA's policies, procedures, and functions that a program office, which is concerned mainly with only one regulatory area, cannot be expected to have. From this perspective, the directives analysts evaluate the draft to make sure that the proposal is necessary, does not violate basic GSA policies, does not duplicate or conflict with other GSA regulations or the regulations of other agencies, and can be expected to efficiently and effectively meet its intended objectives.

Each office that received a copy of the draft for review returns its written comments to the program office. The program office evaluates all comments it receives as a result of this clearance process. The program office cannot by itself overrule a comment—if the program office disagrees with a comment, they must contact the commenting office and reach an agreement on the final wording. If the program office and the commenting office cannot reconcile their differences, the program office must prepare a paper outlining the differences and send it to the Administrator for a decision.

After employees in the program office adopt or reconcile the clearance comments, they prepare the final draft of the regulation. The final draft is sent to the clearance officer, who again reviews the document to make sure that all outstanding issues have been settled. The clearance officer then sends the document to the Commissioner.

Before sending the document forward, the Commissioner must sign a letter that explains why his or her service has developed the regulation. The letter is addressed to the Administrator and contains the following minimum information: The purpose and intended effect of the regulation; its expected impact on GSA, other agencies, and the public; and a summary of comments from other services within GSA, from other agencies, and from the public.

Three top GSA officials must read and agree with both the letter and the regulation before they can recommend whether the Administrator should sign the regulation. The Controller-Director of Administration certifies that the regulation has undergone the clearance procedures and meets all administrative requirements. The General Counsel certifies that the regulation complies with the law. The Deputy Administrator certifies that the regulation is acceptable with respect to Government-wide policy considerations. The Administrator will not sign a regulation until this entire process has been completed.

To make sure that this system functions smoothly, the central control unit periodically visits each service and analyzes the service's regulatory program. The present schedule calls for each service to be evaluated once every 3 years. The central control unit evaluates and recommends improvements in the regulatory program from all paperwork aspects, including forms, reports, and records management. The final report for each evaluation is sent to the Commissioner of the service, who is required to prepare a plan for following recommendations made by the central control unit.

#### SECTION 3. CHANGES TO THE REGULATION PROCEDURES

For regulations that we determine are "not significant," we will follow our present procedures except that:

1. The regulation must follow the policy statements in section 1 of Executive Order 12044. These statements require that regulations be written simply and clearly, that they effectively and efficiently carry out their purposes, and that they do not impose unnecessary burdens.

2. The regulation must be reviewed periodically as explained in section 4 of Executive Order 12044.

3. Each time the regulation is published, it must provide a statement briefly explaining why the regulation is not significant for the purposes of Executive Order 12044.

4. Each proposed regulation will be reviewed to eliminate unnecessary or inappropriate gender-based distinctions.

For significant regulations, we have changed several of our present procedures. The first area that we changed is in providing both to the Administrator and to the public an early warning of proposed regulations. (When we refer to the public in this document we are referring not only to individuals but also to businesses, public and private organizations, and State and local governments.) Before a service begins to develop a significant new regulation, the Commissioner must

send to the Administrator a letter that covers the following points:

1. *Issues.* This section describes the important areas that the proposal will cover, such as the problem or circumstances that created the need for action, the objectives of the proposal, the constraints or limitations that might hinder us in effectively implementing the proposal, and whether there is enough money available in our budget to cover the expenses of the proposal.

2. *Alternatives.* The Commissioner will list the possible ways to solve the problem, including whether it might be possible to solve the problem without issuing a regulation.

3. *Plan for public comment.* The Commissioner will explain how we plan to give the public a chance to comment on the proposal or to help us draft the proposed regulation. The Commissioner may decide which methods to use but we expect that most plans will include one or more of the following methods: Publishing an advance notice of proposed rulemaking in the FEDERAL REGISTER, holding open conferences or public meetings, sending notices of proposals to publications that are likely to be read by individuals who will be affected, or notifying interested parties directly.

4. *Regulatory analysis.* If it is possible at this point in the process, the Commissioner will state whether an economic evaluation of the proposal will be necessary. The basis for determining whether an evaluation is necessary may be narrative statements of the qualitative aspects of the proposal if quantitative data are not available.

5. *Target dates.* The Commissioner will list each major step in the regulation's development process and the expected date for completing each step.

After notifying the Administrator of the plans, each Commissioner also must notify the public of proposals that we are considering. This notification will be in the form of semiannual agendas. On the first Monday in October of each year, we will publish in the FEDERAL REGISTER a schedule that shows the times during the coming year that our regulation agendas will be published. We expect to publish agendas during May (to cover our proposed actions from May through October) and November (covering November through April), but we will publish a special agenda at any time if a Commissioner feels that the public should be informed immediately of a significant regulatory action.

Each service will prepare its own portion of the overall GSA agenda. Each agenda will have four major areas: New regulations, changes to existing regulations, regulations scheduled for review, and status of agenda items previously published.

We expect that the first two areas of the agenda will be the ones in which the public is most interested. Therefore, for each proposed new significant regulation and for each substantive change to an existing significant regulation, the service will provide a description of the new regulation or the change; a summary explaining why we are considering issuing a new regulation or a change; our legal authority for issuing this type of regulation; the name, organizational unit, and telephone number of the person to contact for questions on the proposal; and whether a regulatory analysis will be prepared.

For the third major area, regulations scheduled for review, the service will describe the regulations that we will be reviewing, include a contact point for answering questions, and provide the date by which we expect to have finished the review. In the fourth area, status of agenda items previously published, the service will list significant accomplishments, deletions, and changes to individual items from the previous agenda and the contact point for each item.

After a service has developed its agenda, the Commissioner will send it to the Controller-Director of Administration. The Controller-Director of Administration will ensure that the central control unit consolidates the information from each service's agenda and sends the overall agenda to the Administrator, who will approve the agenda.

The program office will proceed to the discussion stage that is covered under our present method of developing regulations after notifying the Administrator of a proposed new significant regulation and preparing the necessary items for the agenda. The changes from our present method are that the discussions will be more highly structured and that the program office will include the public in these discussions as explained in the "plan for public comments" portion of the Administrator's notification letter. The program office will evaluate the alternative approaches that are available to solve the problem by listing the pros and cons for each alternative and will select the least burdensome alternative that will accomplish the regulatory objective.

The program office will then prepare a draft of the regulation. The draft must be written in plain English, it must not contain unnecessary or inappropriate gender-based distinctions, and it must be understandable to individuals who will be required to comply with the regulation. After drafting the regulation, the program office must evaluate the direct and indirect effects the regulation will have on the public.

The draft regulation will be published as a proposed rule in the FEDERAL REGISTER. The public will have a minimum of 60 days to comment on the proposal. If we cannot allow a full 60 days for comments, our FEDERAL REGISTER preamble will explain why we had to shorten the comment period. If we are required to prepare a regulatory analysis, the preamble will provide a brief description of the regulatory approach that we selected or that we favor, briefly explain the alternatives that we considered, and explain how interested individuals can get a copy of the draft regulatory analysis. At the end of the 60-day comment period, the program office must evaluate each comment on the proposed rule. When the final rule is published in the FEDERAL REGISTER, the preamble will summarize the comments that we received and will provide a response for each group of closely related comments.

The program office then returns to our current procedures by revising its draft and circulating the proposal for comments in our clearance process. When the final document is ready, the Commissioner will include the following additional information in the letter to the Administrator.

1. The Commissioner will include a statement that the regulation has been prepared in full compliance with GSA procedures for implementing Executive Order 12044.

2. If the regulation requires a new report or new recordkeeping requirements, an enclosure to the letter will summarize the new requirements and the estimated costs for each.

3. If a regulatory analysis was prepared, the Commissioner will provide a copy of the analysis. (The preamble to the FEDERAL REGISTER document will explain how the public may obtain a copy.) The program office will include the following information in each regulatory analysis:

(a) A statement of the problem.

(b) A brief description of each alternative that the program office considered to solve the problem.

(c) A detailed economic evaluation of each alternative, including an analysis of the major costs or other inflationary effects that the regulation will have on the economy, individual industries, geographical regions, or levels of government; and analysis of secondary costs and price effects; and an analysis of likely major changes in employment. If it is not possible to quantify the data, the program office will provide narrative statements explaining the qualitative aspects of the alternatives.

(d) A detailed explanation of the reasons for choosing one alternative over the others.

4. An enclosure to the letter will provide a plan for evaluating the regulation before its first scheduled review. The evaluation should focus on the effect the regulation has on the public and on the problem it was intended to solve.

For regulations that we have already issued, we have set up a review program. Under this program, each of our regulations will be reviewed at least once every 5 years. Each Commissioner is responsible for making sure that program offices in his or her service review regulations in their areas of responsibility. Each Commissioner will set up a timetable for completing reviews so that the service can schedule them to fit the workload.

After a service has reviewed a regulation or a set of regulations, the service will send a report of the review to the central control unit. The central control unit will check the report to make sure that the review was thorough. We will publish our review schedules for significant regulations in our semiannual agendas so that the public knows in which areas we are concentrating our regulatory efforts.

Several of our regulations are exempt from these new procedures. Our national security classified regulations are exempt under section 6(b)(2) of the Executive order. Our Federal Procurement Regulations, which are issued in 41 CFR Chapter 1, and our General Services Administration Procurement Regulations, which are issued in 41 CFR Chapters 5A and 5B, are exempt under section 6(b)(4) of the Executive order. Regulations issued by the Administrative Committee of the FEDERAL REGISTER (1 CFR Chapters I and II) are subject to procedures that the Committee develops and therefore are not covered by either our old system or our changes.

In an emergency, a Commissioner may waive any of the new requirements. However, if a Commissioner waives a requirement, the preamble of the FEDERAL REGISTER document will explain why we could not follow the procedures in Executive Order 12044, and the Commissioner's name and title will be provided.

#### SECTION 4. CRITERIA FOR DEFINING SIGNIFICANT REGULATIONS

1. A regulation is significant if the Administrator or the responsible Commissioner decides that it is significant even though it does not meet the criteria in paragraph 2, below. In making this determination, the deciding official will consider such factors as the expected public interest in the regulation and whether the regulation is likely to affect one sex more than the other.

2. A regulation is significant if the program office expects that it will

cause an impact that meets or exceeds any of the criteria in subparagraphs (a) through (g), below. In making this determination, the program office will consider both direct (the regulation causes the impact) and indirect (the regulation requires other agencies to issue rules that will cause the impact) effects.

(a) *Costs.* A regulation is significant if it is likely to cause increased costs for consumers; businesses; or Federal, State, or local governments of more than:

(1) \$100 million in any 1-year period or \$150 million in any 2-year period for the national economy; or

(2) \$50 million in any 1-year period or \$75 million in any 2-year period for any economic sector, industry, level of government, or geographic region.

The program office also will apply cost impact criteria to proposed new regulations that set standards and specifications that are likely to impact the Federal construction or supply schedules at the dollar levels in subparagraphs (1) and (2), above.

(b) *Productivity.* A regulation is significant if it is likely to result in the cost impacts in subparagraph (a), above, through any of the following:

(1) Reducing or restricting industry (output) capacity or capital investment;

(2) Increasing labor person-hours per unit of output;

(3) Increasing barriers to the substitution of processed or raw material supplies; or

(4) Reducing or restricting the adoption of new technologies, equipment processes, or skills.

(c) *Competition.* A regulation is significant if it is likely to substantially: Lessen competition, restrain market information, increase concentration, or tend to create a monopoly or monopolistic market power in any line of commerce if commerce in the relevant market exceeds \$100 million per year.

(d) *Important materials.* A regulation is significant if it is likely to cause in the year of enactment or implementation a substantial increase in demand for or a substantial decrease in supply availability of any important material, product, or service. A substantial change is one that involves more than 5 percent of supply or that is worth \$100 million or more. Important materials, products, or services include:

(1) Components of the national stockpile;

(2) Materials or services that the National Security Council determines are critical; or

(3) Materials, services, or products that the Administrator determines are critical.

(e) *Employment.* A regulation is significant if it is likely to result in a

change in employment in any one year of 185,000 workers (0.2 percent) at the national level or 10,000 workers at the sector, industry, or State level.

(f) *Energy.* A regulation is significant if it is likely to cause in a 1-year period an increase in demand for or a decrease in supply of petroleum or other forms of energy by 35,000 barrels per day or the equivalent (0.1 percent of daily U.S. consumption).

(g) *Reporting burden.* A regulation is significant if it is likely to cause a public reporting burden for any one report that requires:

(1) Each respondent to spend more than 1 hour in filling out the report; and

(2) A total burden of more than 1 million person-hours per year for respondents to fill out the reports.

#### SECTION 5. CRITERIA FOR REGULATORY ANALYSES

The program office will prepare a regulatory analysis for each proposed regulation:

1. For which the Administrator or the responsible Commissioner decides a regulatory analysis is necessary; or

2. That is determined to be a significant regulation under the criteria in paragraph 2 of section 4.

#### SECTION 6. CRITERIA FOR SELECTING REGULATIONS FOR REVIEW

Each Commissioner will ensure that regulations covering material under his or her areas of responsibility are reviewed at least once every 5 years. The Commissioner may decide which regulations are most in need of review; or the responsible service will select the sequence for reviews by applying the following criteria:

1. The continued need for the regulation;

2. The type and number of complaints or suggestions received;

3. The burdens imposed on those directly or indirectly affected by the regulation;

4. The need to simply or clarify language;

5. The need to eliminate overlapping and duplicate regulations;

6. The existence of unnecessary or inappropriate gender-based terminology; and

7. The length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

#### SECTION 7. REGULATION TO BE REVIEWED INITIALLY

##### Office of Controller-Administration

Introduction to the Federal Property Management Regulations. Explanation of GSA's system for issuing regu-

lations concerning agency management of real and personal property and records. Area covered are the structure of the system, how the regulations are published, and similar administrative details. Contact point: Stanley W. Bowers, Chief, Directives Management Branch (202-566-0666).

Payments to GSA for supplies and services furnished to Government agencies. General description, with some examples, of GSA's procedures for paying bills. Contact point: John Boyd, Accounting Policy and Programs Division (202-566-0187).

Annual real property inventories. Detailed instructions to Government agencies for reporting to GSA all real property owned or leased by the U.S. Government through the agencies. Contact point: Joseph M. Pacheco, Acting Director, Central Control Division (202-566-1527).

#### *Office of General Counsel*

Nondiscrimination in programs receiving Federal financial assistance. GSA's procedures for ensuring that when we give financial assistance to a program or an activity, the program or activity does not discriminate against individuals. Contact point: Helen Maus, Administration and Records Division (202-566-1460).

Freedom of Information Act. Procedures that GSA uses in making our records and information available to the public. Contract point: Rebecca Thompson, Administration and Records Division (202-566-1460).

Privacy Act. Procedures that GSA follows to collect, use, and disseminate records that contain information about individuals. Contract point: Rebecca Thompson, Administration and Records Division (202-566-1460).

#### *Automated Data and Telecommunications Service*

Contact point for all items: John F. Stewart, Procurement Policy and Regulations Branch (202-566-0834).

Government-wide automatic data processing (ADP) policy. Covers management, acquisition, and use of automatic data processing by Federal agencies.

Agency payments to telecommunications common carriers. Instructs agencies to inform the common carriers they do business with to provide duplicate telephone bills to GSA.

Essential telephone service during emergencies. Provides for a telephone arrangement so that subscribers with essential emergency functions are not delayed when they make calls from their homes.

Future plans for ADP. Provides procedures and criteria for Federal agencies to follow in planning for automated data and telecommunications systems.

Management and control of computer rooms. Provides guidelines for Federal agencies to follow in managing and controlling their computer rooms.

Listening-in devices. Provides policies concerning the use of these devices by Federal agencies.

#### *Federal Supply Service*

Contact point for all items: John I. Tait, Director, Regulations and Management Control Division (202-557-1914).

Federal Travel Regulations. The Federal Government's policy governing Federal civilian employee travel and relocation allowances.

Criteria for determining method of supply. General criteria for selecting the best methods of supply for agencies to meet their planned requirements.

Use of self-service stores. General policy for agencies to buy their administrative, custodial, and maintenance supplies at stores operated by GSA. Interagency purchase assignments. Basic policy for interagency purchase assignments within the executive branch of the Government.

Emergency preparedness planning. Policies and procedures for agencies to follow in procuring personal property and nonpersonal services during national emergencies.

Preparation and control of U.S. Government National Credit Cards. Policies and procedures covering agency use of Government credit cards, which are used to get supplies and services for U.S. Government motor vehicles, boats, and small aircraft.

#### *National Archives and Records Service*

Contact point for all items: Adrienne Thomas, Director, Planning and Analysis Division (202-523-3214).

Access to unclassified records. Description of the restrictions on the use of unclassified archival materials and procedures for requesting access to unclassified archives through the Freedom of Information Act.

Public requests for review of national security information. Description of the procedures for requesting access to national security information and material in the National Archives of the United States.

Access to materials that remain classified. Detailed procedures to be followed by researchers desiring access to classified archival material in NARS custody.

Mandatory review of White House classified materials. Description of the procedures NARS follows in reviewing White House classified archival materials.

Review of national security classified donated historical materials under Executive Order 11652:

Mandatory review of White House classified materials. Information on procedures followed by NARS in responding to requests for White House classified donated historical materials.

Mandatory review of agency classified materials. Details on the procedures followed by NARS in responding to requests for declassification review of agency classified donated historical materials.

Mandatory review of agency classified materials. Details on the procedures followed by NARS in responding to requests for declassification review of agency classified donated historical materials.

#### *Public Building Service*

Contact point for all items: A Gary Barnes, Chief, Management Control Branch (202-566-0412).

Assignment of space. These regulations prescribe the responsibilities and procedures for the assignment of space to Federal agencies and other procedures for the assignment of space to Federal agencies and other entities entitled to occupy space in Government-owned and leased buildings.

Relocation assistance and payments. These regulations serve to ensure uniform, fair, and equitable treatment of persons displaced from their homes, businesses, or farms by Federal or federally assisted programs designed for the benefit of the public.

Conduct on Federal property. These rules and regulations apply to all property under charge of GSA and to all persons entering such property. They forbid soliciting, vending, debt collection, gambling, illegal use of drugs and alcohol, and they control traffic, parking, and similar actions.

Utilization of excess real property. These regulations prescribe the policies and methods governing the reporting by executive agencies and utilization by Federal agencies of excess real property, including related personal property.

Surplus real property disposal. These regulations prescribe the policies and methods governing the disposal of real property other than that destroyed, abandoned, or donated to a public body.

#### *Federal Preparedness Agency*

Contact point for all items: Dorinda Lowery, Management Analysis Officer (202-566-1975).

Emergency stabilization regulations. Procedures for stabilizing prices, rents, wages, and salaries.

Civil rights. Procedures for ensuring that programs that receive Federal financial assistance do not discriminate against individuals.

Strategic and critical materials. Procedures and delegations of authority

to agencies for releasing vital materials from U.S. stockpiles during an attack on the United States.

Buying supplies and constructing buildings in areas of high unemployment. U.S. policies for placing contracts and facilities in regions of the United States with high unemployment rates.

Defense Mobilization Orders. Policies and procedures for: Building vital facilities in areas that will reduce the risk of damage if we are attacked; making sure our defense production facilities continue to operate if we are attacked or if there is a major disaster; selecting priorities for and allocating materials and facilities for defense production; setting priorities for using U.S. resources after we have been attacked; training and using scientists and engineers for national security purposes; developing programs covering civilian health manpower; setting up a national emergency blood program; supplying materials necessary for defense during a major disaster; providing materials under U.S. Government control to supplement commercial supplies during a major disaster; providing Government-owned industrial plant equipment for use by private industries; stockpiling strategic and critical materials; setting priorities for allocating common use items; and maximizing the use of domestic energy supplies.

Federal Preparedness Circulars and Bulletins. Permanent statements of preparedness policies and programs for Federal departments and agencies.

NOTE.—GSA is in the process of determining which of our existing regulations will become the responsibility of the newly formed Federal Property Resources Service. This determination will not affect the regulation reviews. The designated contact points will answer specific questions concerning regulation responsibility.

Dated: November 16, 1978.

JAY SOLOMON,  
Administrator of  
General Services.

[FR Doc. 78-33731 Filed 12-1-78; 8:45 am]

[6820-34-M]

**PRIVACY ACT OF 1974**

**Revised Routine Use**

AGENCY: General Services Administration.

ACTION: Revision of routine use for the system of records Federal Information Center (FIC) Client Case Files GSA/AV-1 (23-000-0105).

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of

1974, 5 U.S.C 552, of the revision of the routine use section of the system of records Federal Information Center (FIC) Client Case Files.

**FOR FURTHER INFORMATION CONTACT:**

Mr. William Hiebert, Records Management Branch, Paperwork Management Division, 202-566-0673.

**SUPPLEMENTARY INFORMATION:** Pursuant to the provisions of the Privacy Act of 1974, GSA published in the FEDERAL REGISTER (43 FR 38623 and 38624) notification of a new system of records, Federal Information Center (FIC) Client Case Files GSA/AV-1. The routine use section of the notice incorporated by reference the general routine uses in the appendix following the GSA notices. The Office of Management and Budget raised a question as to whether the general routine uses should have been applicable to this system of records. After review of the system of records and the general routine uses, GSA has determined that the system of records GSA/AV-1 should not incorporate the general routine uses. Therefore, the routine use section of the system of records Federal Information Center (FIC) Client Case Files GSA/AV-1, system identification 23-00-0105, is revised to read as follows:

Routine uses of records maintained in the system, including categories of users and purposes of such uses.

Information in the records will be communicated to appropriate Government agency officials for the purpose of solving complaints, mediating disagreements, or eliciting information on behalf of clients. Statistical reports which will not contain personal identifying information will be produced from the records and analyzed by the FIC program staff and may also be analyzed by an outside expert.

Dated: November 21, 1978.

JANICE K. MENDENHALL,  
Controller-Director of  
Administration.

[FR Doc. 78-33739 Filed 12-1-78; 8:45]

[6820-23-M]

**Public Buildings Service**

**GUIDELINES FOR ESTABLISHMENT OF PHYSICAL FITNESS FACILITIES IN FEDERAL SPACE**

AGENCY: General Services Administration.

ACTION: Notice of requirements for establishment of physical fitness programs and facilities.

SUMMARY: GSA and the President's Council on Physical Fitness and

Sports have developed criteria for evaluating Federal agency requests for installation of employee health/fitness facilities in federally controlled space. This notice is intended to inform Federal agencies of the guidelines regarding installing physical fitness facilities for Federal employees.

EFFECTIVE DATE: December 4, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Paul H. Herndon III, Chief, Assignment Branch, Office of Space Management, Public Buildings Service, General Services Administration, Washington, DC 20405 (202-566-1872); or Dr. Richard O. Keelor, Director, Program Development, President's Council on Physical Fitness and Sports, Washington, DC 20201 (202-755-8800).

**SUPPLEMENTARY INFORMATION:** Increasingly, GSA is asked to provide various types of physical fitness facilities for Federal agencies. However, most of these requests are denied on the grounds that these facilities are too costly for the limited number of employees that would use them or because there is no specific program requirement that assures long term use. It has been, and will continue to be, GSA's policy that such facilities will be established on a space-available basis only, and that no additional leased or Government-owned space will be acquired or designed for such a purpose unless it can be shown that the facilities are essential to an agency's mission. However, while these considerations remain of primary importance in the evaluation of agency requests to install physical fitness facilities, GSA recognizes that they must be balanced with a concern for the physical well-being of Federal employees. Therefore, for those agencies interested in instituting physical fitness programs to benefit their employees, GSA, in cooperation with the President's Council on Physical Fitness and Sports, has developed guidelines for the establishment of physical fitness facilities within available federally controlled space. The guidelines will assist in defining the best program for their employees.

**CRITERIA FOR ESTABLISHING FITNESS PROGRAMS:** Before the submission of a Standard Form 81, Request for Space, to GSA, an agency should submit a plan for the proposed program to the President's Council on Physical Fitness and Sports for approval. The proposed plan should set forth the scope and aims of the proposed program, and should include the following components:

1. The results of a survey indicating employee interest in the program;

2. A 3 to 5 year implementation plan demonstrating long term commitment to physical fitness/health for employees;

3. A medical orientation, including screening procedures, individualized exercise programs, identification of high-risk individuals, and appropriate followup activities;

4. Provision for the establishment of a professional staff which would work under the supervision of the medical unit;

5. An approach which will consider key health behavior related to degenerative disease, including smoking and nutrition;

6. A description of the proposed facility (these proposals should be modest and only include the essentials necessary to conduct a program involving cardiovascular endurance work, strength activities, and flexibility); and

7. Provision for equal opportunities for men and women, and all full-time employees, regardless of grade level.

The above-mentioned endorsement of the President's Council on Physical Fitness and Sports should be provided with the request for space and supporting documentation to the appropriate General Services Administration regional office in accordance with the procedures listed in the Federal Property Management Regulations, 101-17. GSA will evaluate all proposals in terms of space availability, alterations feasibility and costs, and the long-range plan for the building involved. All costs connected with the installation, operation, and maintenance of a physical fitness facility shall be borne by the requesting agency.

Dated: November 24, 1978.

DAVID R. DIBNER,  
*Acting Commissioner,  
Public Buildings Service.*

[FR Doc. 78-33728 Filed 12-1-78; 8:45 am]

[4110-08-M]

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE**

National Institutes of Health

**NATIONAL ARTHRITIS ADVISORY BOARD**

**Change in Meeting**

Notice is hereby given of a location change for the meeting of the National Arthritis Board on December 7, 1978, 9:00 to 5:00 p.m., which was published in the FEDERAL REGISTER 11-31-78, 43 FR 50743. The meeting was to have been held at the Sheraton National, Columbia Pike and Washington Boulevard, Arlington, Virginia, but has been changed to the Landow

Building, Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

Further information may be obtained from Mr. William Plunkett, Executive Secretary, National Arthritis Advisory Board, Room 620, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland, telephone (301) 496-1991.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: November 27, 1978.

SUZANNE L. FREMEAU,  
*Committee Management  
Officer, NIH.*

[FR Doc. 78-33752 Filed 12-1-78; 8:45 am]

[4110-08-M]

**NATIONAL DIABETES ADVISORY BOARD,  
EXECUTIVE COMMITTEE**

**Meeting**

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Executive Committee of the National Diabetes Advisory Board on January 10, 1979 in Houston, Tex. The time and meeting location may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne (address above) will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: November 27, 1978.

SUZANNE L. FREMEAU,  
*Committee Management  
Officer, NIH.*

[FR Doc. 78-33751 Filed 12-1-78; 8:45 am]

[4310-02-M]

**DEPARTMENT OF THE INTERIOR**

Bureau of Indian Affairs

**IRRIGATION OPERATION AND MAINTENANCE  
CHARGES**

**Water Charges and Related Information on the  
Wapato Irrigation Project, Wash.**

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and

re delegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Wapato Irrigation Project for Calendar Year 1979 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 53) and March 7, 1938 (45 Stat. 210).

The purpose of this notice is to announce an increase in the assessment rates to correspond with actual operation and maintenance costs on the Wapato-Satus Unit of the Wapato Irrigation Project. The proposed assessment increase for 1979 amounts to \$2.00 per acre on the Wapato-Satus Unit; the rates on the Toppenish-Simcoe and Ahtanum Units will remain the same.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

**WAPATO IRRIGATION PROJECT—GENERAL  
ADMINISTRATION**

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

**IRRIGATION SEASON**

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 15 days when weather conditions and the necessity for doing maintenance work warrants doing so.

**DELIVERY TO PATENT IN FEE LANDS**

No water will be delivered to a patent in fee farm unit until all irrigation charges assessed against the land

for construction, operation and maintenance, and all penalties that may have accrued, are paid.

#### DELIVERY TO INDIAN LANDS UNDER LEASE

No water will be delivered to trust Indian lands under lease until the lessee has paid the irrigation charges and any penalties assessed under these regulations, or in cases where the lease provides that the landowners pay the operation and maintenance charges from the lease rental, no water shall be delivered until the Superintendent of the Reservation has issued a certificate to the Project Engineer certifying that the lessee has complied fully with the terms of the lease.

#### DELIVERY TO INDIAN LANDS BEING FARMED BY INDIAN FARMERS

No water will be delivered to land operated by an Indian farmer until the charges fixed in these regulations are paid, or until the Superintendent of the Reservation has issued a certificate to the Project Engineer, certifying that the Indian will pay the charges through the Superintendent, or that the Indian is financially unable to pay the charges.

#### TIME OF PAYMENT

The charges fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

#### AHTANUM UNIT

##### CHARGES

The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1979 and subsequent years until further notice, is fixed at \$5.25 per acre per annum for land to which water can be delivered from the project works.

#### TOPPENISH-SIMCOE UNIT

##### CHARGES

The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar year 1979 and subsequent years until further notice, is fixed at \$5.45 per acre per annum for land for which an application for water is approved by the Project Engineer.

#### WAPATO-SATUS UNIT

##### CHARGES

The basic operation and maintenance rate on assessable lands under the Wapato-Satus Unit is fixed for the Calendar Year 1979 and subsequent years until further notice as follows:

- (1) Minimum charge for all tracts..... \$17.00
- (2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands.....17.00
- (3) Rate per assessable acre for all lands with a storage water right, known as "B" lands, in addition to other charges per acre.....1.80
- (4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands.....17.90

##### ASSESSABLE LANDS

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of the Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

RICHARD M. BALSIGER,  
Acting Area Director.

NOVEMBER 27, 1978.

[FR Doc. 78-33770 Filed 12-1-78; 8:45 am]

#### [7020-02-M]

#### INTERNATIONAL TRADE COMMISSION

[AA1921-190 and 191]

#### RAYON STAPLE FIBER FROM FRANCE AND FINLAND

##### Investigation and Hearing

Having received advice from the Department of the Treasury on November 13, 1978, that viscose rayon staple fiber from France and from Finland is being, or is likely to be, sold at less than fair value, the United States In-

ternational Trade Commission on November 28, 1978, instituted investigation Nos. AA1921-190 and 191 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

**Hearing.** A public hearing in connection with the investigations will be held on Thursday, January 4, 1979, in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. All persons shall have the right to appear in person or by counsel, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Friday, December 29, 1978.

By order of the Commission.

Issued: November 29, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-33753 Filed 12-1-78; 8:45 am]

#### [4410-01-M]

#### DEPARTMENT OF JUSTICE

#### U.S. CIRCUIT JUDGE NOMINATING COMMISSION, SEVENTH CIRCUIT PANEL

##### Meeting

The first meeting of the nominating panel for the Seventh Circuit of the United States Circuit Judge Nominating Commission will be held on December 15, 1978, at 11:00 a.m., in the Federal Building, U.S. Court of Appeals, Clerk's Office, 219 South Dearborn, Chicago, Illinois 60604.

The purpose of the meeting is to provide the panel members with a history of the Circuit Court system; an explanation of the merit selection process; and, the qualifications to be sought in nominating candidates for Circuit Court Judgeships.

This meeting will be open to the public.

JOSEPH A. SANCHES,  
Advisory Committee  
Management Officer.

NOVEMBER 28, 1978.

[FR Doc. 78-33729 Filed 12-1-78; 8:45 am]

**[4410-18-M]****Law Enforcement Assistance Administration****EVALUATION OF PROJECTS OF MAJOR  
CRIMINAL JUSTICE ACTION PROGRAMS****Solicitation Regarding Grants**

The Office of Criminal Justice Programs is interested in obtaining information from organizations (profit making, not-for-profit, university) who desire to obtain grants to conduct evaluations of the projects of major criminal justice action programs.

Such grants will often require a 10 percent cash match; therefore, each responder should clearly indicate the extent of interest in those grants requiring match and readiness to provide such. Occasionally LEAA may be able to assist in identifying a match source.

Information as to organizational and staff capabilities and experience, as well as specific functional interest areas (i.e.—courts, police, corrections, defense, etc.), should be sent to:

Director, Program Development and Evaluation Staff, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531.

J. ROBERT GRIMES,  
*Assistant Administrator, Office  
of Criminal Justice Programs.*

[FR Doc. 78-33762 Filed 12-1-78; 8:45 am]

**[6820-36-M]****NATIONAL TRANSPORTATION  
POLICY STUDY COMMISSION****OPEN MEETING**

In accordance with section 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, the National Transportation Policy Study Commission announces the following meeting:

NAME: Meeting of the Commission.

DATE: December 14, 1978.

TIME: 9:00 a.m.

PLACE: 2167 Rayburn House Office Building, Washington, D.C. 20515.

TYPE OF MEETING: Open.

**CONTACT PERSON:**

Beth Singley, National Transportation Policy Study Commission, 20000 M Street, N.W. Suite 3000, Washington, D.C. 20036.

Purpose of the Commission: The National Transportation Policy Study Commission was established under section 154 of the Federal-Aid Highway Act of 1976 (Pub. L. 94-280) to report findings and recommendations with

respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative Agenda: Review of Draft Chapters; Review of Special Reports; Review of Staff Working Papers.

Dated: November 29, 1978.

EDWARD R. HAMBERGER,  
*General Counsel.*

[FR Doc. 78-33811 Filed 12-1-78; 8:45 am]

**[3110-01-M]****OFFICE OF MANAGEMENT AND  
BUDGET****CLEARANCE OF REPORTS****List of Requests**

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 28, 1978, (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

The title of each request received;  
The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;  
The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

**NEW FORMS****COMMUNITY SERVICES ADMINISTRATION**

Assessment of the Staff Economic Opportunity Offices  
Single-time

Staff of State or local antipoverty agencies, 663 responses; 510 hours

Reese B. F., 395-3211

**CTTE.—PRODUCTS AND SERVICES OF BLIND  
AND SEVERELY HANDICAPPED**

Initial Certification Qualified Nonprofit Agency for the Blind  
COM 401

On occasion  
Workshops serving the blind; 6 re-

sponses; 12 hours

Reese B. F., 395-3211

**DEPARTMENT OF TRANSPORTATION**

Federal Aviation Administration  
Advisory circular 105-2, sport parachute jumping (paragraph 6, aircraft operating and airworthiness requirements)

Single-time

Aircraft Operators; 1,000 responses; 250 hours

Geiger, Susan B., 395-5867.

**REVISIONS****CTTE.—PRODUCTS AND SERVICES OF BLIND  
AND SEVERELY HANDICAPPED**

Annual certification qualified nonprofit agency for the severely handicapped

COM 404

Annually

Workshops serving other severely handicapped; 100 responses; 400 hours

Reese B. F., 395-3211

Annual certification qualified nonprofit agency for the blind

COM 403

Annually

Workshops serving the blind; 68 responses; 272 hours

Reese B. F., 395-3211

Initial certification qualified nonprofit agency for the severely handicapped

COM 402

On occasion

Workshops serving other severely handicapped; 24 responses; 48 hours

Reese B. F., 395-3211

**ENVIRONMENTAL PROTECTION AGENCY**

Application for Federal Assistance Part IV Narrative

State (underground water source protection program grants)

EPA 5700-33

Annually

State agencies; 627 responses; 5,654 hours

Budget Review Division, 395-4775

Descriptive letters, reply postcard and questionnaires for investigations into noncompliance of vehicles with Federal emission standards

On occasion

Owners of Sus. Noncom. Mot. Veh., Deatr. and Flt. Admin., 6,700 responses; 1,542 hours

Clarke, Edward H., 395-5867

**DEPARTMENT OF AGRICULTURE**

Forest Service

Visitor registration (formerly entitled trail registration)

FS-2300-32

On occasion

Parties of recreation visitors entering selected areas; 21,500 responses;

1,075 hours

Ellett, C. A., 395-6132

Forest Service  
 Visitor's permit (formerly entitled  
 "wilderness permit")  
 FS-2300-30  
 On occasion  
 Parties of individuals entering re-  
 quired permit areas; 195,000 re-  
 sponses; 9,750 hours  
 Ellett, C. A. 395-6132

DEPARTMENT OF HEALTH, EDUCATION,  
 AND WELFARE

Office of Education  
 Application for Grants Under the  
 Emergency School Aid Act: LEA's  
 parts A and B  
 DE-116-1 (parts A and B)  
 Annually  
 LEA's and other public agencies; 1,070  
 responses; 25,880 hours  
 Budget Review Division, 395-4775  
 National Institutes of Health  
 Manpower report  
 NIH 1749  
 Annually  
 Recipients of NIH research support;  
 17,000 responses; 8,500 hours  
 Richard Eisinger, 395-3214

EXTENSIONS

NATIONAL SCIENCE FOUNDATION

1979 Survey of Science and Engineer-  
 ing Graduates  
 Single-time  
 B.A.'s and M.A.'s in science and engi-  
 neering; 28,000 responses; 7,000  
 hours  
 Laverne V. Collins, 395-3214

DEPARTMENT OF HEALTH, EDUCATION, AND  
 WELFARE

Office of education  
 Application for Emergency School Aid  
 Act: Nonprofit Organizations  
 DE-116  
 Annually  
 Nonprofit organizations; 500 re-  
 sponses; 14,300 hours  
 Laverne V. Collins, 395-3214

DAVID R. LEUTHOLD,  
*Budget and Management Officer.*

[FR Doc. 78-33786 Filed 12-1-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for  
 clearance of reports intended for use  
 in collecting information from the  
 public received by the Office of Man-  
 agement and Budget on November 27,  
 1978 (44 U.S.C. 3509). The purpose of  
 publishing this list in the FEDERAL  
 REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring  
 the proposed collection of informa-  
 tion;

The title of each request received;  
 The agency form number(s), if appli-  
 cable;

The frequency with which the infor-  
 mation is proposed to be collected;

An indication of who will be the re-  
 spondents to the proposed collection;

The estimated number of responses;  
 the estimated burden in reporting  
 hours; and

The name of the reviewer or review-  
 ing division or office.

Requests for extension which appear  
 to raise no significant issues are to be  
 approved after brief notice thru this  
 release.

Further information about the items  
 on this daily list may be obtained from  
 the Clearance Office, Office of Man-  
 agement and Budget Washington, D.C.  
 20503, (202-395-4529), or from the re-  
 viewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census  
 Shipper's Export Declaration Disclo-  
 sure Inquiry  
 S-482  
 Single-time  
 Exporters, 750 responses; 188 hours  
 C. Louis Kincannon, 395-3211

DEPARTMENT OF COMMERCE

Bureau of Census  
 Post Enumeration Survey, Followup  
 Questionnaire for the Housing Unit  
 D-840(X), D-840(XN)  
 Single-time  
 Households in dress rehear. areas in  
 Colorado, Virginia, and New York,  
 5,200 responses; 434 hours  
 Office of Federal Statistical Policy  
 and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND  
 WELFARE

Alcohol, Drug Abuse and Mental  
 Health Administration  
 A Study of Sedative-Hypnotic Over-  
 dosage and Deaths—Study No. 1  
 Single-time  
 Patients in emergency rooms, 1,200 re-  
 sponses; 880 hours  
 Richard Eisinger, 395-3214

Office of Human Development  
 Job-related Information Data Sheet  
 Single-time  
 Rehabilitation counselor see section  
 2(1), 400 responses; 1,800 hours  
 Reese B. F., 395-3211

Office of Human Development  
 Annual Report for Vocational Reha-  
 bilitation  
 OHD-RSA-2  
 Annually  
 State rehabilitation agencies, 81 re-  
 sponses; 2,430 hours  
 Reese B. F., 395-3211  
 Public Health Service

Collaborative Pituitary Adenoma  
 Study  
 Single-time

Women who have pituitary adenoma  
 and controls, 526 responses; 347  
 hours

Richard Eisinger, 395-3214

Health Resources Administration  
 SHCOG and Health Professions Spe-  
 cial Project National Impact Study  
 Single-time

Students, graduates, institutional ad-  
 ministrators, 2,850 responses; 1,283  
 hours

Richard Eisinger, 395-3214

DEPARTMENT OF THE TREASURY

Bureau of Customs  
 Declaration of Unaccompanied Arti-  
 cles

Customs 255

On occasion

International travelers, 90,000 re-  
 sponses, 9,000 hours

Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF ENERGY

Crude Oil Buy/Sell Program Refiner-  
 Buyer Semi-Annual Report

ERA-56

Quarterly

Eligible refiner-buyers, 52 responses;  
 52 hours

Hill, Jefferson B., 395-5867

Crude Oil Buy/Sell Program Refiner-  
 Seller's Monthly Report

ERA-57

Quarterly

All major refiners, 180 responses; 180  
 hours

Hill, Jefferson B., 395-5867

NATIONAL SCIENCE FOUNDATION

Summary of Completed Projects

NSF-98A

Annually

Colleges and universities, 10,000 re-  
 sponses; 5,000 hours

Laverne V. Collins, 395-3214

U.S. CIVIL SERVICE COMMISSION

JFA Education and Experience Ques-  
 tionnaire

CSC-994A

On occasion

Applicants for Federal employment,  
 1,500 responses; 3,750 hours

Marsha Traynham, 395-3773

FEDERAL RESERVE SYSTEM

Monthly Report of Negotiable Orders  
 of Withdrawal (NOW) Accounts

FR-2015 Monthly

All depository institutions (except  
 credit unions) in Nebraska and New  
 York, 17,738 responses; 1,774 hours

Geiger, Susan B., 395-5867

## U.S. CIVIL SERVICE COMMISSION

Summer Employment Examination—  
Applicant Data Sheet CSC 905-A on  
occasion  
Students, 75,000 responses; 12,500  
hours  
Marsha Traynham, 395-3773

## DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Coopera-  
tives Service, Meat Marketing Chan-  
nel Study (South)  
Single-Time  
Meat pac., proc., restr., instit., and re-  
tailers, 1,620 responses; 810 hours  
Office of Federal Statistical Policy  
and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND  
WELFARE

Social Security Administration  
Statement of Expenditures for Child  
Support Enforcement  
SSA-4117  
Quarterly  
St. tit. IV-D agen. admin. the child  
sup. enforce. prog., 216 responses;  
216 hours  
Reese B. F., 395-3211

Social Security Administration  
Quarterly Estimate of Expenditures  
SSA-65  
Quarterly  
Child care and supportive services, 216  
responses; 108 hours  
Reese B. F., 395-3211

## DEPARTMENT OF LABOR

Employment Standards Administra-  
tion  
Report of Section 10 Adjustment Pay-  
ments in Support of Claim for Reim-  
bursement  
LS-230  
Semi-Annually  
Insurance Companies and self-insured  
employers, 4,000 responses; 466  
hours  
Strasser, A. 395-6132

## DEPARTMENT OF LABOR

Employment Standards Administra-  
tion  
Payment of Compensation Without  
Award  
LS-206  
On occasion  
Insur. companies and self-insured em-  
ployers, 40,000 responses; 10,000  
hours  
Strasser, A., 395-6132

## EXTENSIONS

AGENCY FOR INTERNATIONAL  
DEVELOPMENT

Report of Loss, Damage or Misuse of  
Commodities  
Donated Under Pub. L. 480, Title II  
Activities  
Format  
On occasion

Charitable organizations working over-  
seas, 900 responses; 900 hours  
Marsha Traynham 395-3773

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service  
Poultry Market News Reports  
LPGS-10, 17, 88, 90  
Weekly  
Poultry producers and processors,  
50,400 responses; 2,042 hours  
Ellett, C. A., 395-6132

## DEPARTMENT OF COMMERCE

Bureau of Census  
Electric Lamps (Bulbs Only) (Produc-  
tion, Shipments and Stocks)  
MQ-36B  
Quarterly  
Manufacturers of electric lamp bulbs,  
80 responses; 80 hours  
Office of Federal Statistical Policy  
and Standard, 673-7956  
Industry and Trade Administration  
Export Promotion-Exhibitor's  
Report—Followup Report  
ITA-411 and DIB-458P  
On occasion  
Manufacturers and/or agents, 12,000  
responses; 6,000 hours  
C. Louis Kincannon, 395-3211

DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT

Administration (Office of Assistant  
Secretary)  
Application for Insurance Benefits,  
Fiscal Data and General Assignment  
HUD-469  
On occasion  
FHA approved mortgagees, 5 re-  
sponses; 12 hours  
Strasser, A. 395-6132

DAVID R. LEUTHOLD,  
Budget and Management  
Officer.

[FR Doc. 78-33787 Filed 12-1-78; 8:45 am]

[3110-01-M]

## PRIVACY ACT

## Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals \* \* \*"

OMB policies implementing this provision require agencies to submit re-

ports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered system, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between October 30, 1978 and November 24, 1978. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

## DEPARTMENT OF JUSTICE

*System name:* Investigative Support Information System.

*Report date:* October 26, 1978.

*Point-of-contact:* Mr. William J. Snider, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530.

*Summary:* This is a new system, to be maintained by the FBI as an adjunct to the FBI central records system. It will consist of computerized listings of individuals whose names appear on documents in active investigative case files. Those case files will be maintained in the Central Records System. The Investigative Support Information System records will be maintained, on computer tape for easy retrieval, only during the duration of an investigation, according to the report.

*System name:* Weekly Statistical Report.

*Report date:* November 3, 1978.

*Point-of-contact:* Mr. William J. Snider, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530.

*Summary:* This is an existing system, maintained by the Criminal Division as a management tool for measuring and tracking the time spent by attorneys on various activities. It is proposed to expand the systems by including weekly statistical reports on criminal division paralegals.

## FEDERAL COMMUNICATIONS COMMISSION

*System name:* Records of money received, refunded, and returned and personal checks destroyed.

*Report date:* October 31, 1978.

*Point-of-contact:* Mr. Richard D. Lichtwardt, Federal Communications Commission, Washington, D.C. 20554.

**Summary:** This is a revision to an existing system, used to track refunds to individuals for overpayment of fees for various FCC applications, or fees paid and later suspended by court order. The FCC has revised the system following questions raised by OMB and the Subcommittee on Government Information and Individual Rights.

DEPARTMENT OF HEALTH, EDUCATION,  
AND WELFARE

**System name:** Health Care Provider File.

**Report date:** October 31, 1978.

**Point-of-contact:** Ms. Nancy Seiler, HSA Privacy Act Coordinator, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

**Summary:** The Health Services Administration proposes this system in order to evaluate the "quality and efficacy" of medical care and utilization of services in eight Public Health Service general hospitals. The system will consist of a research data base of data about and obtained from all health care professionals who are associated with patient treatment in the relevant hospitals. The report notes that while the skills of health care providers will be verified, "no determination will be made regarding rights, benefits, or privileges of individuals."

NUCLEAR REGULATORY COMMISSION

**System name:** Property and Supply System.

**Report date:** November 1, 1978.

**Point-of-contact:** Ms. Betty L. Wagman, Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

**Summary:** This is a new system of records intended to maintain inventory control over NRC-owned personal property signed out to employees, consultants and contractors. The only personal information included will be the names and office locations of those individuals.

SECURITIES AND EXCHANGE COMMISSION

**System name:** Acquisition, Tender Offer, and Solicitation Records Filed Under the Securities Exchange Act of 1934.

**Report date:** November 1, 1978.

**Point-of-contact:** Ms. Julie Allecta, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549.

**Summary:** This is a proposed modification to an existing system. The SEC will add information on beneficial ownership which is required to be filed under 1977 amendments to the Securities Exchange Act. In addition, some of the information in the system will be computerized, and three filing schedules revised accordingly. The changes, taken together, will accord-

ing to the report improve the SEC's analytical capability, and centralize reporting of securities ownership information, avoiding duplicative reporting.

DEPARTMENT OF DEFENSE

**System name:** General Legal Files.

**Report date:** November 9, 1978.

**Point-of-contact:** Mr. William Canvane, Defense Privacy Board, Department of Defense, Washington, D.C. 20301.

**Summary:** The Department of the Army has proposed this new system of records to be maintained by the Judge Advocate General. It will include legal documents such as personnel actions, investigations, and petitions, involving military personnel.

**System name:** Defense Meritorious Service Medal Files.

**Report date:** November 9, 1978.

**Point-of-contact:** Mr. William Canvane, Defense Privacy Board, Department of Defense, Washington, D.C. 20301.

**Summary:** This is a new system proposed by the Office of the Secretary of Defense "to track and insure issuance of approved award to appropriate individuals."

DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT

**System names:** (1) Disaster Recovery Assistance Files; (2) Disaster Assistance Personnel Reserve Files.

**Report date:** November 14, 1978.

**Point-of-contact:** Mr. Harold Rosenthal, Departmental Privacy Act Officer, Department of Housing and Urban Development, Washington, D.C. 20410.

**Summary:** The first system of records consist of records on applicants for disaster recovery assistance, including temporary housing, home loans, and grants, and will be used to make determinations of eligibility. HUD plans to use the second system as a file of individuals available for staffing disaster field offices during disasters and emergencies. The records will include the names, addresses, telephone number, and special skills, ability and experience of the personnel.

**Waiver requests:** OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between October 30, 1978 and November 24, 1978.

Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be directed to OMB.

DEPARTMENT OF DEFENSE

**System name:** Repromotion Eligibility Files.

**Report date:** November 13, 1978.

**Point-of-contact:** Mr. William Canvane, Defense Privacy Board, Department of Defense, Washington, D.C. 20301.

**Summary:** This new system will be used by the Defense Mapping Agency to aid in placing employees who were downgraded "competitively and through no fault of their own" in positions at their former grade level or higher.

VELMA N. BALDWIN,  
Assistant to the Director,  
Administration.

[FR Doc. 78-33759 Filed 12-1-78; 8:45 am]

[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Monday, December 11, 1978, from 1:30 p.m. to 5:00 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552b(c)(1) (the exception to the Government in the Sunshine Act for matters specifically required by Executive order to be kept secret in the interest of foreign policy) will be reviewed and discussed.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Executive Director, Advisory Committee for Trade Negotiations, Office of the Special Representative

for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

PHYLLIS O. BONANNO,  
Executive Director, Advisory  
Committee for Trade Negotia-  
tions.

[FR Doc. 78-33927 Filed 12-1-78; 8:45 am]

[8010-01-M]

**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 10489; 812-4377]

**INTERNATIONAL INVESTORS INC. AND I.I.  
SECURITIES CORP.**

**Filing of an Application**

NOVEMBER 22, 1978.

Notice is hereby given that International Investors Incorporated ("International"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and I.I. Securities Corporation, its principal underwriter ("III") 122 East 42nd Street, New York, New York, 10017, filed an application on October 18, 1978, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting from the provisions of Section 22(d) of the Act a proposed transaction ("Sale") pursuant to which shares of International will be issued at net asset value without a sales charge in exchange for certain gold mining company shares held by Mondial Commercial Limited, a Liechtenstein limited company ("Mondial"), through a subaccount at the Swiss Credit Bank, the Metric Accounting Unit Storage Agreement subaccount ("Subaccount"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

International has been informed that approximately 1,926 persons ("Account Holders") have beneficial interests in the Subaccount, that the Subaccount concentrated its investments in gold bullion, gold coins and gold mining stocks and that Progress Foundation, a Swiss charitable institution, owns all of the stock of Mondial. In November, 1975, the Commission initiated enforcement proceedings in the United States District Court for the District of Columbia (the "District Court") against various individuals and entities, including Progress Foundation and Mondial. The District Court appointed a special counsel ("Special Counsel") on behalf of the Account Holders. Additionally, the Swiss Banking Commission issued a decree ("Swiss Decree") in June, 1976, providing that all assets of the various Mondial subaccounts, including the Subaccount, be distributed to the in-

vestors in a manner to be approved by the Swiss Banking Commission and satisfactory to the Commission.

International has been advised by the Special Counsel that in furtherance of the Swiss Decree, and in connection with settlement of the enforcement proceedings initiated by the Commission, two partial liquidation distributions, consisting of gold bullion and gold coins held by the Subaccount, have been made to the Account Holders and that a plan calling for a third partial liquidation distribution, consisting of shares of nine issues of gold mining stocks held by the Subaccount, was approved by the Swiss Banking Commission on September 26, 1978, and by the District Court on October 11, 1978. International has been advised by the Special Counsel that under the distribution plan the Account Holders will be given the option of receiving their pro rata portions of the gold mining stocks, to the nearest whole share based on the number of "metric accounting units" to which they are entitled according to the books and records of Mondial (i) "in kind" either by delivery directly to them of certificates for the shares representing such portions, by transfer of such shares to their individual accounts at a bank or other institution or by delivery to them of American Depository Receipts for the shares or (ii) with respect to seven of the nine issues of such shares ("Securities"), instructing the Subaccount to exchange their pro rata portions of the Securities for International shares and accepting American Depository Receipts for their pro rata portions of the remaining two issues. Account Holders who fail to make a timely election with respect to the Securities will be deemed to have elected the "in kind" option.

As of September 30, 1978, the Securities had an aggregate market value of approximately \$5,253,918 and International had net assets of approximately \$97,773,115. If all Account Holders elected to take their distributions in shares of International, the Sale of International shares on September 30, 1978, in exchange for all of the Securities would have resulted in the issuance to the Account Holders of \$470,359.71 International shares having a net asset value of \$11.17 each (assuming International had accepted all the Securities).

The Special Counsel has advised International that the documents to be delivered to the Account Holders pursuant to the distribution plan, as approved by both the District Court and the Swiss Banking Commission, include (i) a notice to all Account Holders, prepared by the Special Counsel and describing the distribution plan and the past operations of the Subac-

count, (ii) a form for the Account Holder's use in electing to take his pro rata distribution of the Securities "in kind" or in International shares and (iii) International's prospectus and most recent report to its shareholders.

Applicants state that, ordinarily, sales of International's shares are made through its underwriter, III, at their net asset value plus a sales charge. According to International's prospectus, the maximum sales charge is 8.50%, which is applicable to purchases of less than \$10,000 and the sales charge decreases to 1.25% on purchases of \$500,000 or more. The sales charge is reduced on shares purchased by an investor who purchases under an accumulation plan and no sales charge is imposed on reinvestment of income dividends or on the sale of International shares for investment to officers, directors and bona fide, full-time employees of International, its investment adviser or III or on reinvestment of capital gains or on purchases made under exchange privileges with other open-end investment companies.

Applicants state that the Sale of International shares to the Subaccount will be made on the following basis. The Subaccount will deliver to International a written order for the purchase of International shares having an aggregate net asset value (as next computed following receipt of the order) equal to the net asset value of the Securities delivered with such order. In exchange for such Securities, International then proposes to issue its shares to the Subaccount at the net asset value thereof, without a sales charge. The number of International shares to be issued in exchange for the Securities delivered by the Subaccount will be determined by dividing the net asset value of such Securities by the net asset value per share of International's shares, both computed as of the time International's net asset value per share is next determined after the Subaccount's delivery to International of the purchase order.

For purposes of determining the number of International shares to be issued in the Sale, the Securities to be delivered to International by the Subaccount will be valued in accordance with Rule 2a-4(a)(1) under the Act and International's normal procedures for valuing its portfolio securities. The Board of Directors of International has determined that such valuation is appropriate. In making such determination the Board considered all factors which it deemed relevant, including (i) the amount and quality of the Securities which may be acquired, their markets and trading volumes and their compatibility with the investment policies and objectives of International, (ii) the fact that the Sale will

be consummated without expense to International, (iii) the benefits for the shareholders of International, (iv) the possible adverse effect on the issues now held by International if all the Securities held by the Subaccount were sold simultaneously at whatever prices might be obtainable on that basis, (v) the possibility that, as a result of Account Holders electing an "in kind" distribution of Securities, substantially less than all the Securities may be delivered to International, and (vi) the ability of International to process its normal expected level of redemptions.

Applicants state that no Sale will be made to the Subaccount unless (i) all Securities to be acquired by International are acceptable to it on the date of the Sale, (ii) the Subaccount offers to International all Securities held by it on the date of the Sale, and (iii) evidence satisfactory to International is presented that the person effecting the Sale on behalf of the Subaccount has the authority to do so. The Special Counsel has provided International with a list of the gold mining stocks held by the Subaccount and has indicated that he does not expect that the Subaccount will acquire or, except for the "in kind" distributions described above, dispose of any securities before the Sale. International will accept only Securities for which market quotations are readily available as of the date of the Sale. International has determined that as of September 30, 1978, such market quotations are readily available for all the Securities and, accordingly, presently intends to accept all the Securities. International has no present intention of selling any of the Securities within a relatively short period following their acquisition.

The Sale will be made only to the Subaccount or persons authorized to act for it. International understands that such persons will request that the International shares be issued directly to the Account Holders who elect to take their distributions in International shares. Accordingly, although International anticipates that its shares will be issued directly to the Account Holders (or to their nominees), no offer or sale will be made by International to the Account Holders in connection with the Sale. The consent of the Account Holders is not required for the implementation of the distribution plan, including the Sale, and their only discretion in connection with the distribution will be to elect to take International shares or an "in kind" portion of the Securities. In all cases the person to whom International shares are issued will become the record owner of such shares. Upon the issuance of International shares to the Account Holders, an appropriate con-

firmation will be delivered to each Account Holder who has become a record holder of International's shares. International has been advised that together with International's confirmation each Account Holder will receive a report from the Special Counsel concerning the distribution of International shares to the Account Holder.

The Securities do not include two of the issues of gold mining stocks held by the Subaccount because the acquisition of them by International, when combined with the shares thereof already held by International, would cause its holdings of such issues to exceed the maximum permitted by its investment policies. International has determined, on the basis of the market prices of the Securities as of September 30, 1978, that International's acquisition of the Securities would not, on a pro forma basis giving effect to the completion of the Sale, cause (a) International to hold more than 10% of the outstanding shares of any one issuer (b) securities of any one issuer to constitute more than 5% of the net assets of International, or (c) International to be in violation of any of its internal policies.

For federal income tax purposes, the Sale will be treated as a taxable transaction for the Subaccount and its Account Holders, to the extent each is subject to such taxes. Because International will not acquire the Securities pursuant to a plan of reorganization or liquidation, it will not be entitled to any loss carryover which may have been available to the Subaccount. The tax basis of the Securities in International's hands will be their fair market value, computed as provided above, at the close of business on the date the Subaccount delivers its purchase order. Because the Securities will be acquired by International at their fair market value, no unrealized appreciation or depreciation will carry over to International.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company except at a current offering price described in the prospectus. The current public offering price of the shares of International, as described in its prospectus, is net asset value per share plus a sales charge. As noted above, such sales charge will not be applicable to the Sale. Applicants state that without an exemption from Section 22(d) of the Act International would be prohibited from issuing its shares to the Subaccount without a sales charge.

Applicants state that the Subaccount will pay any transfer taxes imposed on the transfer of the Securities to International and that neither III

nor International will bear any expenses in connection with the proposed sale, except that International will bear the ongoing transfer agent expenses customarily borne by it in connection with sale of any of its outstanding shares and III will bear the cost of confirmations, Prospectuses and shareholder reports to be distributed to the Account Holders. All other expenses, including fees and out-of-pocket costs of counsel, which arise in connection with the Sale will be incurred by International's investment adviser, which will be reimbursed therefor by the Subaccount up to a maximum of \$10,000.

Applicants further state that there is no connection between International and the Subaccount. The management of International considers the proposed acquisition by it of the Securities in exchange for its shares to be at a fair price, arrived at by arms length bargaining, and believes that the Sale will be beneficial to the shareholders of International for the following reasons:

(a) Those expenses of International which do not rise proportionately with an increase in portfolio size will be spread over a larger number of shares and therefore will be a smaller amount per share to the benefit of existing shareholders;

(b) The proposed acquisition will enable International to acquire at one time additional securities for its existing portfolio without affecting the market in such securities; and

(c) The Securities will be acquired by International at less expense than would be the case if securities of the same issuers were purchased in the open market, for the reason that there will be no brokers' commissions or dealer mark-ups in connection with the Sale.

In addition, Applicants point out that no sales effort will be involved, and no sales costs or other costs (except the ongoing transfer agent expenses customarily borne by International in connection with sale of any of its outstanding shares) will be incurred by International in connection with the Sale. Applicants maintain that it is only fair to recognize such cost savings and to pass them along to the Subaccount. Applicants submit that, even assuming that 100% of the Account Holders should instruct the Subaccount to exchange their portion of the Securities for International shares and redeem their shares promptly after the Sale, the ability of International to process both such redemptions and its normal expected level of redemptions would not be jeopardized since International has sufficient cash on hand to be able to handle them.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities, or transactions from any provision or provisions of the Act and the Rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that in their opinion the terms of the Sale are fair and reasonable and in the best interests of International and its shareholders, and, therefore, that granting of the requested exemption is consistent with the general purposes of the Act, and is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,  
Assistant Secretary.

[FR Doc. 78-33757 Filed 12-1-78; 8:45 am]

### [8010-01-M]

[Release No. 20785; 70-6219]

#### CONNECTICUT LIGHT & POWER CO. ET AL.

##### Proposed Sale and Leaseback of Utility Assets and Lease Financing

NOVEMBER 20, 1978.

Notice is hereby given that The Connecticut Light and Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, public-utility subsidiary companies of Northeast Utilities ("NU"), a registered holding company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10, and 12(d) of the Act as applicable to the following proposed transactions. The proposed transactions involve the sale and leaseback of certain utility assets consisting of land, buildings, and equipment, and the lease financing of a new building and additions and improvements to existing buildings and equipment. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the transactions proposed.

It is proposed that the following facilities be sold to real estate subsidiaries of Interet Corporation, a nonaffiliated lease broker, (Interet Corporation and its subsidiaries are herein referred to as "Interet") and simultaneously leased back: (a) The Tolland, Connecticut Service Center ("Tolland") owned by CL&P, consisting of a service center building, garage, and site improvements situated on 13.3 acres of land. The estimated fair market value of these facilities is \$1,600,000. The original cost, including land, was \$1,571,332, and the current book value is \$1,471,774. The sale price of these facilities will be the book value. (b) The Convex dispatching building owned by CL&P located in Southington, Connecticut ("Convex"), consisting of a building situated on approximately 1 acre of land. The estimated fair market value of this facility is \$927,000. The original cost, excluding land, was \$546,927, and the current book value is \$368,072. The sale price of these facilities will be the book value. The land will not be sold but will be leased by CL&P to Interet. (c) In addition, CL&P, HELCO, and WMECO, as owners of the Millstone nuclear plant site in Waterford, Connecticut, propose to lease a small parcel of land at the site to Interet, on which will be constructed a refuel outage building to be leased to such companies ("Millstone").

The existing Tolland Service Center is being substantially renovated and expanded. It is estimated that the total cost of the addition to Tolland will not exceed \$3,528,226, and the total amount to be financed by Interet will be not more than \$5,000,000 (being the sum of the purchase price for the existing facilities and the total estimated cost of the addition). The Convex dispatching building houses all dispatch facilities and equipment for Convex, which is a satellite dispatching center of the New England Power Exchange. New computer equipment (including the AGC/SCADA system described below) is to be installed at Convex, and additional improvements to the building are necessary to accommodate the new equipment and otherwise improve the facility. Because the CL&P Southington property contains the Southington transmission substation as well as the Convex building, CL&P proposes to lease to Interet the land on which the Convex building is located at a nominal rent rather than sell any land with the building. The Ground Lease will be coterminous with the lease of the building to CL&P. It is estimated that the total cost of the addition to Convex will not exceed \$931,928, and the total amount to be financed by Interet will be not more than \$1,300,000 (being the sum of the purchase price of the existing facilities and the total estimated cost of the addition).

Refueling operations at the Millstone site require the construction of a refuel outage building which is to be constructed on land leased to Interet by the applicants-declarants at a nominal rent. The Ground Lease will be coterminous with the lease of the building to the applicants-declarants. It is estimated that the total cost of the construction of the refuel outage building will not exceed \$2,000,000, and the amount to be financed by Interet will not exceed this amount.

In connection with such proposed transactions, the applicants-declarants will enter into Sale and Leaseback Agreements with Interet as lessor. The base term of the Tolland lease will be for 30 years, for Convex 20 years, and for Millstone 25 years. All leases will be "net leases" in that the lessee will assume all costs of operating and maintaining the facilities, including the payment of property taxes and insurance. The companies will capitalize the leases for ratemaking purposes unless the Connecticut Public Utilities Control Authority directs that the lease payments be treated as operating expenses pursuant to the addendum to APB Opinion No. 2. If the operating expense treatment is so directed, and if the payments are material, the companies will reflect the leases in a footnote disclosure in the appropriate fi-

nancials and reflect the lease payments as an expense in the statements of income. In terms of annual interest charges, the average simple interest cost to the lessee embodied in the rentals will be approximately 9.75% per annum for Tolland, 9.80% per annum for Convex, and 10.01% per annum for Millstone. Interest will finance the acquisition of the facilities through a first mortgage or mortgages on the facilities from institutional lenders.

It is stated that the proposed transactions will enable the applicants-declarants to obtain necessary financing for the facilities on favorable terms in the light of existing conditions. The companies, with the exception of WMECO, are unable at the present time to sell first mortgage bonds and are limited in their ability to issue preferred stock because of inadequate coverage ratios. Lease financing therefore offers a favorable alternative for the long-term financing of needed new facilities at this time.

In addition to the foregoing, CL&P proposes to lease not more than \$6,000,000 worth of the data processing equipment and software and accessory equipment ("System") which will together comprise all or part of a new Automatic Generation Control/Supervisory Control and Data Acquisition (AGC/SCADA) system to be installed in the Convex dispatching building described above. The proposed transaction is being arranged by Interet Corporation. CL&P is to enter into a Participation Agreement with The Connecticut Bank and Trust Company, as Trustee ("Trustee"), Ford Motor Credit Company, and Manufacturers Detroit Leasing Company ("Equity Participants") and Bankers Life Company ("Institutional Investor"). Pursuant to the Participation Agreement and prior to putting any part of the System into service, CL&P will either arrange for the Trustee to acquire such part from the vendor or will itself purchase such part and resell it to the Trustee. The Trustee will hold legal title to the System for the benefit of the Equity Participants and the Institutional Investor pursuant to a Trust Agreement. When the System is delivered to and accepted by the Trustee, the Trustee will simultaneously lease back the System to CL&P pursuant to a Lease Agreement ("Lease"). The base term of the Lease will be eight years, which term will not exceed 75% of the estimated economic useful life of the System. CL&P will have the right either to purchase or to renew on a fair market or fair rental value basis. If CL&P neither purchases nor renews the Lease at the end of the base term, the System will be returned to the Trustee. The Lease will be a "net lease" in that CL&P will

assume all costs of operating and maintaining the System, including the payment of property taxes and insurance. It is stated that the AGC/SCADA system lease does not meet any of the FASB-13 tests for capitalized leases and that, therefore, it will be accounted for by CL&P as an operating lease and will not appear on its balance sheet. The lease rentals will be treated as an operating expense for ratemaking purposes.

The Trustee will finance its acquisition of the System through a combination of an investment of approximately 25% of the Trustee's cost by the Equity Participants and of an issuance of secured notes to the Institutional Investor at an interest rate of not more than 9.5% per annum in an amount equal to approximately 75% of the Trustee's cost. The rental payments are premised upon the availability of certain tax benefits to the Equity Participants. In the event that such tax benefits prove to be unavailable, the Lease rentals will be adjusted. Such adjustments could, in the aggregate, increase the effective interest cost up to a maximum of 10% per annum.

CL&P believes that the net lease approach is the most reasonable and least expensive method now available to it for the acquisition of the System. It is estimated that the annual cost to CL&P to purchase the System by conventional methods would be approximately 12% as opposed to approximately 8% for the rental charge.

It is represented that the Connecticut Public Utilities Control Authority ("PUCA") has jurisdiction over certain of the proposed transactions. It is further stated that CL&P may seek a ruling from the PUCA that the Trustee, the Equity Participants, and the Institutional Investor will not be deemed an "electric company" under Title 16 of the Connecticut General Statutes; that the Trustee and the Equity Participants may also file a petition for a declaratory ruling with the Federal Energy Regulatory Commission seeking a determination that none of such parties is a "public utility" under the provisions of Part II of the Federal Power Act; that it is expected that the Lessor, the institutional lender, the Trustee, and the Equity Participants will seek an exemption pursuant to Rule 7(d) under the Act; and that no other regulatory approvals, except that of this Commission, will be required in connection with the real estate and equipment transactions. A complete statement of the fees and expenses to be incurred in connection with the proposed transactions is to be filed by amendment.

Notice is further given that any interested person may, not later than December 14, 1978, request in writing

that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-33756 Filed 12-1-78; 8:45 am]

[8120-01-M]

#### TENNESSEE VALLEY AUTHORITY

##### IMPROVING GOVERNMENT REGULATIONS

##### Semiannual Agenda of Significant Regulations

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual notice of agenda of significant regulations under development or review.

SUMMARY: This document satisfies the requirements of Executive Order No. 12044, "Improving Government Regulations" (the "order"), by informing the public of the determination made by the Board of Directors of TVA that TVA currently has no regulations under development or review which qualify as "significant" under the order.

EFFECTIVE DATE: The determination of which this document gives notice was made at a public meeting of TVA's Board of Directors on November 16, 1978, and covers the period through April 2, 1979.

ADDRESS: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

**FOR FURTHER INFORMATION CONTACT:**

Lynn G. Morehous, Assistant General Counsel, 400 Commerce Avenue, E10D76, Knoxville, Tennessee 37902, 615-632-3081.

**SUPPLEMENTARY INFORMATION:** On June 15, 1978, TVA published in the FEDERAL REGISTER (43 FR 25951) its draft report implementing Executive Order No. 12044. That report made clear that TVA is essentially a program agency. It issues few rules and regulations and makes a concerted effort to minimize the number which it must issue. TVA's regulations generally follow the form of standard government-wide regulations usually developed under the supervision of a "lead agency" or Executive orders requiring uniform government action. All TVA regulations are personally approved by TVA's Board of Directors. Under these circumstances, elaborate criteria to determine which future regulations are "significant" would be counterproductive to the goal of the order to simplify regulations and their developmental process.

TVA currently has under development or review three regulations which are subject to the order. These are an amendment to its regulations under Section 26a of the TVA Act, which would increase public participation in the process for issuing permits under that section, and proposed procedural regulations implementing the Public Utility Regulatory Policies Act of 1978 and sections 504 and 505 of the Rehabilitation Act of 1973, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. On November 16, 1978, based on the criteria set forth in the order, the TVA Board of Directors determined that none of the regulations subject to the order which are under development or review are "significant" within the meaning of the order.

**SEMIANNUAL AGENDA OF REGULATIONS**

No significant regulations are expected to be developed or reviewed in the period covered by this notice.

Dated November 16, 1978.

H. N. STROUD, Jr.,  
Acting General Manager.

[FR Doc. 78-32982 Filed 12-1-78; 8:45]

[4910-06-M]

**DEPARTMENT OF TRANSPORTATION**

Federal Railroad Administration

[Docket Nos. RMB-79-1 and 2]

**MINORITY BUSINESS RESOURCE CENTER**

**Purchase of Redeemable Preferred Stock**

*Proposed Program:* By notice of July 25, 1978, published in the FEDERAL REGISTER of July 31, 1978 (43 FR 33358), the Federal Railroad Administration ("FRA") advised that it had solicited applications from each of five small business investment companies ("MESBICs"), licensed by the Small Business Administration ("SBA") under section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681), for the purchase by the United States of their redeemable preferred stock ("stock") under section 11 of the Department of Transportation Act, 49 U.S.C. 1657a. The names and addresses of the MESBICs, and the amounts of the purchases were contained in the notice. Notice is hereby given that FRA has received and has under review two additional applications in connection with a separate solicitation. These applications are:

**DOCKET NUMBER AND NAME**

RMB 79-1—Fulcrum Venture Capital Corporation, 2021 K Street, NW., Washington, D.C. 20006.

RMB 79-2—Innecity Broadcasting Corporation, 801 2nd Avenue, New York, N.Y. 10017.

Fulcrum Venture Capital Corporation is a licensed MESBIC. Innecity Broadcasting Corporation has agreed to proceed as quickly as possible to form a MESBIC and to secure an SBA license under the Small Business Investment Act of 1958. Each applicant proposes that the United States purchase MESBIC stock having an aggregate par value not in excess of \$3,000,000.

*Justification for program.* The proceeds of the sale of the stock are to be used by each MESBIC to make investments in minority entrepreneurs and businesses to engage in business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads. Simultaneous with the purchase of stock in each MESBIC, the SBA will be participating by an investment in the MESBIC under its regulations governing SBA investments in MESBIC's (13 CFR pt. 107).

*Comments.* Interested persons may submit written comments on the separate applications to the Executive Director of the Minority Business Resource Center, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, not later

than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

Each application will be made available for inspection during normal business hours in room PL-413 at the above address of the FRA, subject to the regulations of the Office of the Secretary of Transportation set forth in 49 CFR Part 7.

The FRA is in the process of conditionally approving the two applications. Such approvals will be subject to the receipt by FRA of all necessary materials from the applicants, the execution of a financing agreement, and with respect to Innecity Broadcasting Corporation, the creation and licensing of a MESBIC. Comments will be considered by the FRA in completing its evaluation of the applications. However, formal acknowledgements of comments will not be provided.

(Sec. 11, Department of Transportation Act, as amended (49 U.S.C. 1657a))

Dated: November 29, 1978.

Comment closing date: December 30, 1978.

KENNETH E. BOLTON,  
Executive Director, Minority  
Business Resource Center, Federal  
Railroad Administration.

[FR Doc. 78-33760 Filed 12-1-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety  
Administration

**SAFETY BELTS; CONTRACT RESEARCH STUDIES  
RESULTS**

**Public Meeting**

The National Highway Traffic Safety Administration (NHTSA) will hold a public meeting on December 15, 1978, to present the results of two contracted research studies. One study assessed safety belt usage in the U.S. and the second evaluated the comfort and convenience of safety belts in 1979 model cars.

The meeting will be held in Room 2230 at the DOT (Nassif Building) at 400 Seventh Street, S.W., beginning at 9:30 a.m. and should be over about noon.

First, each contractor will give a short overview of his findings and then answer questions from the press. After the overviews, more technical and detailed briefings will be given.

The first contractor to present his findings will be Opinion Research, Inc. from Princeton, New Jersey. During this study observations were made of safety belt usage in about 70,000 cars that were stopped for traffic signals in

19 city areas. The observations were made between November 1977 and June 1978. Some of the factors associated with belt usage to be discussed are: type of belt system; model year of car; car manufacturer; car size and model; type of road; and driver age and sex.

The second study to be presented was conducted by Verve Research Corporation Rockville, Maryland. The purpose of this study was to evaluate safety belt comfort and convenience aspects in 30 representative 1979 model cars including two passive belt systems. More than 100 subjects used the safety belts in the 30 cars and were asked to evaluate various aspects of the belts related to comfort and convenience. The presentation will show how the 30 cars compared to each other and will also include various subscores for selected aspects of comfort and convenience. The discussion will also cover factors that may influence ratings of comfort and convenience, such as type of belt system, height, weight, age and vehicle configuration.

All tables presented, including a summary of the studies, will be available at the end of the meeting.

Additional information may be obtained from Mr. Peter Ziegler, Office of Driver and Pedestrian Research, Room 3202, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590, telephone 202-755-8753.

Issued on November 28, 1978.

WM. H. MARSH,  
*Executive Secretary.*

[FR Doc. 78-33765 Filed 12-1-78; 8:45 am]

[4810-31-M]

## DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 79-2; Reference: ATF O 1100.99]

### DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 245, BEER

#### Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 245, Beer, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, Headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the approval of activities at regulated breweries and pilot brewing plants. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR

Part 245, Beer, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 245, Beer:

a. To prescribe all forms required by regulations including bonds, applications, notices, reports, returns, and records, under 27 CFR 245.2.

b. To approve applications by a brewer to use a brewery for other purposes not involving the production of alcoholic beverages when such use will not jeopardize the revenue nor impede the effective administration of the regulations and is not contrary to the specific provisions of law, under 27 CFR 245.12.

c. To approve other materials and methods found acceptable for use in the preparation of plats, under 27 CFR 245.66.

d. To determine the similarity of a container to a bottle or can and the similarity of a container to a barrel or keg, under 27 CFR 245.111a.

e. To approve other methods for durably marking each barrel or keg of beer, under 27 CFR 245.125.

f. To require the actual place of production to be shown on labels when the brewer's name, trade name, or brand name includes the name of the city which is not the place where the beer was produced, under 27 CFR 245.126.

g. To approve letterhead applications for exceptions to construction, equipment, and methods of operation requirements, under 27 CFR 245.221 and 27 CFR 245.222.

h. To cancel any approved exception or variation to regulatory requirements and, if necessary to protect the revenue, to require brewers to conform to construction, equipment, or methods of operation requirements specified in regulations, under 27 CFR 245.221.

i. To require the maintenance of ATF F 2051 (5130.5) Sheets 1 and 2, Record of Brewery Operations, by any brewer when the interests of the United States so demand, under 27 CFR 245.225.

j. To approve the types of records to be reproduced and the reproduction processes to be employed, under 27 CFR 245.233.

k. To approve applications on ATF F 3019 (5130.13), Process for Concentration or Reconstitution of Beer, of processes to produce concentrates from beer; to require with the application a flow diagram, drawing, or other

accurate depiction of the process; and to require the brewer to submit samples and additional information relating to the operation, under 27 CFR 245.236 and 27 CFR 245.237.

l. To withdraw approval of a concentration process in any case where the brewer fails to comply with the provisions of the regulations, under 27 CFR 245.237.

m. To approve applications on ATF F 3019 (5130.13) of processes to be used to reconstitute beer from concentrates; to require with the application a flow diagram, drawing, or other accurate depiction of the process; and to require the brewer to submit samples and additional information relating to the operation, under 27 CFR 245.238 and 27 CFR 245.239.

n. To withdraw approval of a reconstitution process in any case where the brewer fails to comply with the provisions of the regulations, under 27 CFR 245.239.

4. *Redelegation.* a. The authorities in paragraphs 3a, 3h, 3l, and 3n above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b through 3g and in paragraphs 3i, 3j, 3k, and 3m above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorizations that follow may be redelegated to regional regulatory administrators, who may redelegate these authorizations to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor:

(1) The authority in paragraph 3b above to approve applications for use of brewery for other purposes which are in the public interest because of emergency conditions, and the authorities in paragraphs 3c and 3i above.

(2) The authorities in paragraphs 3b or 3e or 3g or 3j above to approve requests by a brewer may be redelegated to regional officials to approve only those requests, without submission of the applications to Headquarters for approval, which are identical to those previously approved by Bureau Headquarters.

(3) The authority in paragraph 3h above to cancel or withdraw any approved exceptions or variations authorized by Bureau Headquarters; and the authorities in paragraphs 3l and 3n above to withdraw approval of concentration or reconstitution processes. Where regional officials cancel or withdraw approval, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of the cancellation or withdrawal.

*Effective date.* This order becomes effective on November 24, 1978.

Signed: November 24, 1978.

STEPHEN E. HIGGINS,  
Acting Director.

[FR Doc. 78-33754 Filed 12-1-78; 8:45 am]

[4810-33-M]

Comptroller of the Currency

FAIR HOUSING LENDING ENFORCEMENT

Public Meeting

AGENCY: Comptroller of the Currency.

ACTION: Notice of Public Meeting.

SUMMARY: Settlement of *National Urban League, et al. v. Office of the Comptroller of the Currency, et al.* (Civil Action No. 76-0718) provides that a semi-annual meeting will be held to review the fair housing lending enforcement program of the Office of the Comptroller of the Currency. Members of the public are invited to attend this meeting.

DATE: December 14, 1978, 2:00 p.m.

ADDRESS: 490 L'Enfant Plaza, SW., Washington, D.C. 20219. Individuals who plan to attend this meeting should report to the 6th floor reception desk prior to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Zina G. Greene, Director, Civil Rights Program, Office of the Comptroller of the Currency, Washington, D.C. 20219, phone 202-447-0934.

**SUPPLEMENTARY INFORMATION:** Settlement of *National Urban League, et al. v. Office of the Comptroller of the Currency, et al.* (Civil Action No. 76-0718) provides that a semi-annual meeting will be held to review the fair housing lending enforcement program of the Office of the Comptroller of the Currency. Representatives of the Comptroller of the Currency will discuss their fair housing program and any changes made or proposed therein and will receive and consider suggestions from the National Urban League.

Members of the public are invited to attend this meeting and will be given an opportunity to make comments and suggestions with respect to the enforcement program of the Comptroller of the Currency.

Dated: November 24, 1978.

ZINA G. GREENE,  
Director,  
Civil Rights Program.

[FR Doc. 78-33775 Filed 12-1-78; 8:45 am]

[4810-22-M]

Customs Service

BROMINE AND BROMINATED COMPOUNDS  
FROM ISRAEL

Final Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that an investigation has resulted in a determination that the Government of Israel has not given benefits considered to be "bounties or grants" within the Countervailing Duty Law to manufacturers or exporters of bromine and brominated compounds.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly A. Kuga, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

**SUPPLEMENTARY INFORMATION:** On June 5, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 24395). The notice stated that it preliminarily had been determined that benefits had been received by the Israeli manufacturers/exporters of bromine and brominated compounds which might constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

Bromine is a chemical element of the halogen family used in production of a great variety of chemical products. Bromine is provided for in the Tariff Schedules of the United States under item 415.05. Brominated compounds are classified under various item numbers including items 429.28, 420.82 and 403.60.

Programs preliminarily determined to be bounties or grants included:

1. Rebate of property taxes when companies achieve a required level of exportation of their manufactured articles.
2. Refund of a portion of export insurance premiums for one firm which utilized this program.
3. Subsidization of research and development expenses on export-related products for one firm which utilized this program.
4. Regional development assistance including:

(A) Grants and loans for approved firms.

(B) Reduced rents and preferential mortgage rates on buildings and equipment.

(C) Tax concessions and accelerated depreciation for approved firms.

(D) Exemption from payment of Customs duties and purchase taxes on imported machinery and equipment.

This investigation involves two Israeli firms, Dead Sea Bromine Company, Ltd. (Dead Sea) and Bromine Compounds, Ltd. (Bromine Compounds). Both firms received benefits in the form of property tax rebates and regional development assistance while Bromine Compounds also utilized research and development grants and received certain rebates of export insurance premiums. Subsequent to our preliminary determination, it was found that the research and development grants were erroneously identified as a separate program; actually they are administered as a part of the regional development assistance program.

That preliminary determination stated in part:

"The Government of Israel has submitted that payments and bestowals made under the various regional development programs enumerated above are significantly less than the net increased costs actually incurred in establishing and maintaining facilities in areas eligible for such benefits by the firms making the merchandise under investigation. The net *ad valorem* benefit from these programs would therefore be zero and no bounty or grant would be deemed to exist despite the preponderance of production for export. However, further information is necessary to determine the basis on which the dislocation costs were computed so that the precise net *ad valorem* benefit, if any, can be verified."

Based upon an analysis of information submitted by the Government of Israel, certain "net" dislocation costs incurred by Dead Sea and Bromine Compounds were identified and verified. These additional costs related primarily to increased labor costs and electricity costs incurred by the firms by virtue of locating in a less commercially advantageous part of Israel. These net "dislocation costs" have been determined to exceed the regional development assistance received by each of these companies and therefore it has been determined that the net benefit from the regional assistance programs is zero and no bounty or grant exists.

It has also been determined that the export insurance program, which was only utilized by Bromine Compounds, covers its claims from operating income (primarily premiums charged to the policyholders themselves); there is no evidence of ongoing government funding of the program and therefore it does not operate in such a way as to be considered a "bounty or grant".

Both Dead Sea and Bromine Compounds do receive rebates of property taxes as a result of the degree to which they export. In the most recent business year, Dead Sea received rebates which conferred an *ad valorem* benefit 0.06 percent, while rebates received by Bromine Compounds were 0.12 percent *ad valorem*.

On the basis of information supplied subsequent to the preliminary determination, it is hereby determined that benefits have been paid by the Government of Israel on the manufacture/exportation of bromine and brominated compounds in the form of partial rebates of property taxes depending upon export performance, but that the benefits involve an aggregate amount considered to be *de minimis* in size, and that therefore no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) upon the manufacture, production or exportation of bromine and brominated compounds from Israel.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and §159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel of  
the Treasury.

NOVEMBER 27, 1978.

[FR Doc. 78-33734 Filed 12-1-78; 8:45 am]

in which they are interested. No amendments will be entertained after the date of this publication.

MC 143296 (Sub-2F), Peach State Bus Lines, Inc., now assigned December 6, 1978, at Atlanta, Ga., will be held in Room 202 North Annex, 7741 Roswell Road, instead of Room 305, 1252 W. Peachtree St., N.W.  
MC 118859 (Sub-11F), Bullock Trucking Company, Inc., now assigned for hearing December 7, 1978 at Atlanta, Ga., and will be held in Room 212 North Annex, 7741 Roswell Road instead of Room 202 North Annex, 7741 Roswell Road.

MC 105813 (Sub-241), Belford Trucking Co., Inc., now assigned December 6, 1978, at Atlanta, Georgia will be held in Court Room 212, North Annex, 7741, Roswell Road, N.E., instead of Room 202.

MC 125433 (Sub-149F), F-B-Truck Line Company, now assigned December 11, 1978, at Los Angeles, California is canceled and application dismissed.

MC 138713 (Sub-3F), R & G Transit Corp., now assigned December 4, 1978, at St. Louis, Mo., is postponed indefinitely.

MC 144232 (Sub-1F), Contract Distribution System, Inc., now assigned pre-hearing conference is transferred to a hearing December 19, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 121658 (Sub-11F), Steve D. Thompson, now assigned, December 4, 1978, at Baton Rouge, La., is postponed indefinitely.

MC 141532 (Sub-33F), Pacific States Transport Corp., now being assigned January 10, 1979 (3 days), in Room No. 324, U.S. Courthouse, 312 North Spring Street, Los Angeles, Calif.

MC 119789 (Sub-424F), Caravan Refrigerated Cargo, Inc., now assigned continued hearing January 15, 1979, at Washington, D.C., is postponed to February 13, 1979, at the offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33791 Filed 12-1-78; 8:45 am]

#### [7035-01-M]

[No. MC 141600]

BARKER'S SCHOOL BUS SERVICE, INC., GARY,  
IND.

Common Carrier Application

NOVEMBER 9, 1978.

I. Applicant will provide the public with a more economical type of service which protestants are not offering. The benefits to the public from the availability of this type of service outweigh the potential harm to protestants. The application will be granted.

II. The proposed restriction to transportation in school buses will not be imposed on the grant of authority. The restriction is unenforceable, serves only to make the operations more difficult, does not describe the service needed, and does not protect any legitimate interests of existing carriers.

Donald W. Smith for applicant.

D. I. Harfeld, Harry J. Harman, and Harold M. Olsen for protestants.

#### DECISION

Applicant seeks irregular-route motor common carrier authority to transport passengers and their baggage, in interstate or foreign commerce, in round-trip charter operations, beginning and ending at points in Lake, LaPorte, and Porter Counties, IN, and extending to points in Ohio, Kentucky, Illinois, Missouri, Michigan, and Wisconsin, restricted to service to be performed in school buses. The application is opposed by Shoup Buses, Inc., Keeshin Charter Service, Inc., and Indiana Motor Bus Company, a corporation.

In his initial decision, the Administrative Law Judge granted the application, finding that (1) the supporting witnesses have established a need for a more spartan service than is provided by protestants, and (2) by restricting the grant of authority to service to be performed in "school buses", any adverse effects on existing carriers will be prevented.

Division 1 affirmed the initial decision finding that the supporting witnesses have established a need for a passenger service which is substantially different from the service currently offered by protestants. The restriction limiting service to the use of school buses was deleted as unnecessary, administratively undesirable, and difficult to enforce. A subsequent petition for reconsideration was denied by Appellate Division 1.

Protestants Indiana Motor Bus Company and Shoup Buses, Inc., instituted an action in the United States Court of Appeals for the Seventh Circuit. By decision of May 31, 1978, the Commission reopened the proceeding for further consideration on the present record subject to approval of the Court of Appeals. On July 7, 1978, the Court granted the motion to remand the proceeding to the Commission for further consideration.

We have considered the evidence, the initial decision, the decision and order of Division 1, and the pleadings. We agree with the division's conclusion with regard to the equipment restriction but believe, in light of the Administrative Law Judge's reliance on this restriction, that additional explanation is appropriate. We find the detailed summary of facts contained in the initial decision as adopted by division 1 to be correct in all material respects. As modified and supplemented in this decision, we adopt that factual summary as our own. Only those facts necessary for an understanding of the issues will be restated.

#### [7035-01-M]

### INTERSTATE COMMERCE COMMISSION

[Notice 748]

#### ASSIGNMENT OF HEARINGS

NOVEMBER 29, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings

## PERTINENT FACTS

The supporting witnesses are involved with organizations which have extremely limited funds for purposes of charter trips outside of Indiana. These trips are made predominantly by children or young people. A few trips are also sponsored for elderly and disadvantaged patrons. Each public witness testifies that its motive for supporting the application is to obtain a more economical service. It is for this reason that school buses, rather than more luxurious equipment, are sought. The witnesses generally have not used the services of protestants. Two witnesses did testify that protestant Shoup did not have equipment available when needed and that its rates were too high.

Indiana Motor Bus Company holds regular route authority, embracing incidental charter rights, to transport passengers and their baggage, over a route extending between various points in Indiana, including most of Lake County, the southwestern part of Porter County, and portions of La Porte County, on the one hand, and, on the other, points in numerous States, such as Chicago, IL, and Kalamazoo, MI. Protestant operates 42 buses, all described as deluxe intercity, parlor type coaches with air conditioning. It indicates that it is willing to provide a charter service to meet the witnesses' needs.

Keeshin Charter Service is authorized to transport passengers and their baggage, in charter operations, from points in Cook and Will Counties, IL, and Lake County, IN, to all States sought in this proceeding, and return, restricted to traffic originating in the territory indicated. Protestant operates a fleet of 21 buses, 17 of which are equipped with lavatories, stereo music, reclining seats, air conditioning, public address systems, radios, and oversized luggage storage compartments. It does not operate ordinary school buses. Keeshin indicates that during the first 5 months of 1976, it operated at only 50 percent capacity.

Shoup Buses is authorized to transport passengers and their baggage, in charter service, from points in Indiana to points in Illinois, Ohio, and Michigan, and return. Protestant has 15 buses utilized for charter operations.

## DISCUSSION AND CONCLUSIONS

I. Equipment Restriction. The proposed restriction to transportation in school buses should not be imposed on the grant of authority. It is unenforceable, it would make the operations more difficult, it does not describe the service needed, and it would not protect any legitimate interests of existing carriers. The general criteria which may be used to determine whether given restrictions are accept-

able in grants of authority are set forth in *Fox-Smythe Transp. Co. Exemption—Oklahoma*, 106 M.C.C. 1 (1967). The three most common reasons why restrictions are found unacceptable were stated at 106 M.C.C. 10 to be (1) that the proposed restriction serves no useful purpose, (2) that the proposed restriction is unclear or confusing, or (3) that the proposed limitation is unduly restrictive. The restriction we are considering here falls to some extent in each of these three categories.

A. *The restriction is unenforceable.* There is no clear definition available for what a "school bus type vehicle" is. The "Schoolbus Exemption" set forth in Section 203 (b)(1) of the Interstate Commerce Act refers to "motor vehicles employed solely in transporting school children and teachers to and from school." Our regulations concerning this exemption provide, in 49 CFR 1047.2, that the exemption is applicable even if the vehicle is used at other times for transportation which is beyond the scope of the exemption. See also *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423, 429-431 (1969), and *Schoolbus Exemption*, 113 M.C.C. 258, 275-288 (1971) and 114 M.C.C. 531 (1971). Accordingly, there is no limitation at all on the type of vehicle which may be used under this exemption, and so there is no guidance here toward defining what is a "school bus."

On the other hand, those regulations of the Department of Transportation which deal with the safety aspects of school bus operations provide a definition which appears to be much more restrictive than applicant intends. The definition which appears at 49 CFR 605.3(b) states:

"School bus operations" means transportation by bus exclusively for school students, personnel and equipment in type I and type II school vehicles as defined in Highway Safety Program Standard No. 17.

Highway Program Standard No. 17, "Pupil Transportation Safety," appears at 24 CFR 1204.4 and defines school vehicles in this manner:

III. *Definitions.* "Type I school vehicle" means any motor vehicle with motive power, except a trailer, used to carry more than 16 pupils to and from school. This definition includes vehicles that are at any time used to carry schoolchildren and school personnel exclusively, and does not include vehicles that only carry schoolchildren along with other passengers as part of the operations of a common carrier.

"Type II school vehicle" means any motor vehicle used to carry 16 or less pupils to or from school. This does not include private

motor vehicles used to carry members of the owner's household.

Part IV of the standard requires, in general, that Type I school vehicles (a) be identified with the words "School Bus" on front and back, (b) be painted school bus yellow, (c) have glossy black bumpers, (d) be equipped with certain signaling devices, and (e) have a described system of mirrors. Type I school vehicles owned by a local transit system and used for regular common carrier transit route service as well as school route service, however, need not be painted yellow and black, shall have temporary "school bus" signs, and need not be equipped with the signaling devices. When a school vehicle is permanently converted to other uses, it must be painted another color, and the signaling devices must be removed. When a school vehicle is used to transport passengers other than school pupils, the words "School Bus" must be concealed and the signaling devices made inoperative. Type II school vehicles must comply either with all of these requirements or with none of them, as determined by the individual States.

Although applicant does operate school bus services, it does not appear that it intends that its operations be limited to the use of equipment which complies with all the requirements of Highway Program Standard No. 17. It is also clear that these requirements have very little, if anything, to do with the needs of the supporting witnesses.

In his initial decision, the Administrative Law Judge attempted to define a school bus "as a vehicle of a model manufactured primarily for use as a school bus, whether or not the particular vehicle has ever been or is used as a school bus within the exemption of section 203(b) of the act or not, and that such vehicle must not be equipped with air conditioning, restrooms or reclining seats." It must be acknowledged that there is a clear common conception of what a typical school bus would be, but this is not the issue. Rather, in looking toward the problem of enforcing the proposed restriction if it is imposed on the grant of authority, we must consider what range of variations from the typical would be acceptable. For example, it does not seem impossible for air-conditioning and reclining seats to be installed in a typical school bus body. The resulting vehicle might not be outwardly readily distinguishable from the original, and yet passengers would find these extra comforts quite similar to those of the more usual coaches which protestants provide.

Applicant has offered no suggestion as to how the proposed restriction

could reliably be enforced, and we perceive none ourselves.

B. *The restriction would serve only to make the operations more difficult.* In substance, the proposed restriction says that applicant shall not permit its passengers to be too comfortable. Restrictions having similar effects were condemned in *Fox-Smythe* at 106 M.C.C. 20, on the grounds that they are, in most cases, "of the pure nuisance type".

In this case, the attempt clearly is to enforce a distinction in the class of service provided: relegating applicant to what might well be described as a 4th-class service. We do not believe this result is in the public interest since it would impose an arbitrary and inflexible standard, unresponsive to the needs or desires of prospective patrons. To deny the public the use of an available service unless it is willing to put up with inferior accommodations is not the proper role of this Commission. For such a situation to result from economic factors or applicant's choice of what type of equipment it will operate is one thing; for a regulatory body to enforce such a limitation is, in our opinion, inappropriate.

C. *The restriction does not describe the service needed.* The overwhelming majority of the supporting witnesses have described their needs primarily as for a more economical service. These witnesses have generally identified school bus type equipment as a means of satisfying that need. It is not apparent that this is the only possible means of satisfying that need, however, since it is our experience that numerous small or locally-based carriers across the country are able to provide comparatively economical services by operating older or second-hand conventional equipment, among other possibilities. An example of this type of situation may be found in *City Transit Co., Common Carrier Application*, 113 M.C.C. 471, 472 (1971) in which the applicant proposed to add "better (though not new)" buses to its fleet to accommodate increased business.

Further, we do not feel it is necessary to impose a restriction of any sort to ensure that applicant will actually provide the type of service it proposes. This conclusion is supported by the fact that, although applicant's present authority is not restricted in the manner proposed, it operates 80 school buses and a few service vehicles. As a result, we conclude that the proposed restriction neither describes the service needed nor is necessary to ensure that the type of service needed will actually be provided.

D. *The restriction would not serve to protect the legitimate interests of existing carriers.* Protestants, despite their general duty as common carriers to

serve the entire public, have been unwilling or unable to offer the type of service applicant will provide. This lack of service detracts substantially from the weight we have given to their interests in opposing the application. The same conclusion is warranted with respect to their interests which might be protected if the proposed equipment restriction were imposed in the grant of authority. We would perhaps be more inclined to protect protestants' interests if they were in fact providing the type of service applicant proposes, but they are not.

Existing carriers are not entitled to limit new carriers to providing only those services they themselves do not choose to provide, even though authorized to do so. We believe that it would be contrary to the public interest to protect protestants' interests in existing traffic when they are not providing some of the services which they are authorized to provide. Protestants are free to choose not to provide the more economical type of service applicant proposes, but we will not restrict applicant to providing a less commodious service on this ground. To do so would in part, benefit protestants even though they have been unresponsive to the needs of a significant segment of the public. In this context, their interests which the proposed restriction would protect are not legitimate.

E. *Summary.* Section B of Appendix II to the report in *Fox-Smythe, supra*, aptly summarizes the proper treatment of equipment restrictions:

Acceptable equipment restrictions . . . usually tend to achieve the positive "purpose" of describing the service authorized, the transportation characteristics of the commodity to be transported, and/or of protecting the legitimate interests of existing carriers. (106 M.C.C. at 44.)

The proposed restriction here, to transportation in school buses, satisfies none of these criteria. Accordingly, the grant of authority will not include the proposed restriction.

II. *Public Convenience and Necessity.* The Administrative Law Judge found that the supporting witnesses have established a need for a low-cost service, and that imposition of a restriction to service in school buses assures the rendition of such a service. He also concluded that a grant of authority without such a restriction is not supported by the public convenience and necessity. The restriction, it was believed, would prevent any adverse effect on protestants' operations. Division I affirmed the finding of need for a different service than offered by protestants, but deleted the restriction.

We affirm the finding in prior orders on the issue of the supporting witnesses needs for a different service but must consider whether a grant of un-

restricted authority is required by the public convenience and necessity. We conclude that it is.

In applications for motor common carrier authority, the Commission has consistently followed the criteria set forth in *Pan-American Bus Lines Operation*, 1 M.C.C. 190, 203 (1936). As a consequence, whether or not the present or future public convenience and necessity require the proposed operation depends, in substance, on whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest. In essence, the question is whether the advantages to those members of the public that would use the proposed service outweigh the disadvantages, real or potential, to existing services that may result. *All American Bus Lines, Inc., Common Carrier Application*, 18 M.C.C. 755, 776-777 (1939).

The deletion of the restriction does not affect the Administrative Law Judge's conclusions with respect to the first and second criteria defined above. It is the effect of a grant of unrestricted authority on protestants' operations which is now at issue.

A grant of authority, with or without the proposed restriction to school buses, may result in diversion of some traffic from protestants. We do not doubt there are groups who would prefer to use applicant's less expensive service, even though they may now be using one of protestants' services. Similarly, if applicant is not limited to the type of equipment it uses, it is apparent that it would be able to handle the transportation of some groups that desire the more comfortable equipment such as protestants operate.

On the other hand, we perceive that most of the groups supporting the application either are not using protestants' services or are using those services only infrequently. This situation is similar to that which arose in *City Transit, supra*, where it was found that the difference between protestants' and applicant's services was "one of deluxe as opposed to less glamorous service rather than a difference solely of rates." It must also be recognized that the limited territorial scope of the application generally could ensure that protestants' services will still be used on longer trips where applicant's less commodious equipment is not as appropriate.

We conclude that the benefits which would accrue to the public from the availability of the more economical

type of service applicant proposes amply outweigh the potential adverse effects on protestants. The fact that none of the three protestants has seen fit to provide this type of service up until now suggests that the addition of some competition to this market is appropriate and detracts substantially from the weight which we give to the potential adverse impacts on protestants' operations. Therefore, granting the application can be expected to result in better service to the public by meeting the needs of those groups which have needs which cannot be met by the standard services protestants now provide.

The proposed restriction to transportation in school bus type vehicles will not be imposed on the grant of authority. Since that restriction was included in the notice of the application published in the FEDERAL REGISTER, however, we feel that it is appropriate that a notice of the authority actually granted be published in the FEDERAL REGISTER before a certificate is issued. Therefore, issuance of a certificate will be withheld for thirty days after publication. During that time, any interested person not a party to this proceeding may file a petition seeking leave to intervene in this proceeding. The petition must demonstrate in specific detail the manner in which the petitioner has been materially adversely affected by the deletion of the equipment restriction, or else the petition will be rejected.

*We find, on reconsideration:*

The present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of passengers and their baggage, in round-trip charter operations, beginning and ending at points in Lake, La Porte, and Porter Counties, IN, and extending to points in IL, KY, the Lower Peninsula of MI, OH, WI, and those points in MO on and east of U.S. Highway 63 and on and north of U.S. Highway 60. Applicant is fit, willing, able properly to perform this service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision does not significantly affect the quality of the human environment. An appropriate certificate should be issued, subject to republication of the grant of authority in the FEDERAL REGISTER. The application in all other respects should be denied.

*It is ordered:*

The decision entered October 6, 1977 in this proceeding, to the extent inconsistent with this decision, is vacated.

The application is granted to the extent set forth in the findings.

After publication of the grant authority in the FEDERAL REGISTER, a cer-

tificate will be issued if applicant complies with the appropriate requirements set forth in the Code of Federal Regulations (49 CFR 1043, 1044, and 1306). Applicant must comply within 90 days after the date of service of this decision or the grant of authority will be void.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Stafford dissenting.

H. G. HOMME, Jr.,  
Acting Secretary.

Commissioner Stafford, dissenting:

I would deny the application. I agree with the majority that the equipment restriction should not be imposed; however, without any restriction applicant can offer any type of service. In view of the limited origin territory, I believe that the potential financial harm to protestants far outweighs the need for an unenforceable and speculative "economical" service.

[FR Doc. 78-33795 Filed 12-1-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 29, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 19, 1978.

FSA No. 43634, Southwestern Freight Bureau, Agent's No. B-783, Trailer-on-Flat-Car Rates on various commodities, between stations in Southwestern and Southern Territories, in Sup. 227 to its Tariff SW/S-84-H, ICC 5012, to become effective December 30, 1978. Grounds for relief—revised rate structure. By the Commission.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc. 78-33792 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Decision No. 36634 (Sub-No. 1)]

MONTANA INTRASTATE GRAIN RATES

Decided November 16, 1978.

On November 14, 1978, the Commission required the Montana railroads to increase their intrastate rates by the same amount as was authorized in Ex Parte Nos. 305-RE, 318, 330, and 336. However, the increase insofar as it pertained to grain was stayed.

Upon the petition of the Montana Department of Agriculture (MDOA) the Commission also ordered that an investigation into Montana intrastate

rates and charges on grain be instituted.

*It is ordered:* This investigation is instituted to determine whether the Montana intrastate rates on grain should be ordered increased to the Ex Parte No. 336 level.

The Commission will consider any relevant evidence and arguments. The Commission seeks evidence, in particular, relevant to whether transportation conditions for grain within Montana are more favorable than interstate transportation conditions for grain, whether the existing intrastate grain rates in Montana are abnormally low, and whether the stayed increases applicable to Montana intrastate grain rates are just and reasonable.

All common carriers by railroad operating in Montana subject to the Commission's jurisdiction are made respondents.

All persons who wish to actively participate in this proceeding shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the Federal Register publication date. Persons having common interests should consolidate their presentations to the greatest extent possible.

The Commission will serve a list of names and addresses of all persons upon whom service of pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served on MDOA and copies shall be sent by certified mail to the Governor of Montana and to the Montana Public Service Commission. A copy shall also be served on the respondents, The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Union Pacific Railroad Company, and The Burlington Northern Inc. Copies shall also be deposited in the Office of the Secretary of the Commission at Washington, D.C., and filed with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major Federal action significantly affecting the quality of the human environment.

By the Commission, Chairman O'Neal.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-33793 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Notice No. 137]

**MOTOR CARRIER BOARD TRANSFER PROCEEDINGS**

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before January 3, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77845, filed September 5, 1978. Transferee: JOEL SCHAEFER, doing business as SCHAEFER TRUCKING, Route 4, Platteville, WI 53818. Transferor: Bloomington Produce, Inc., Box 67 (Wall Street), Bloomington, WI 53804. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought for purchase of a portion of the operating rights of transferor set forth in Certificate No. MC-124417, issued August 16, 1977, as follows: Animal and poultry feed (except liquid commodities), in bulk, and in bags, in mixed shipments, from specified points in IA to points in a specified portion of WI, restricted to transportation in vehicles equipped with mechanical or pneumatic unloading systems; livestock and poultry feed, from Davenport, IA to points in the Towns of Fennimore and Potosi, Grant

County, WI; and animal and poultry feed, from Dubuque and Iowa Falls, IA to points in Crawford, Grant, IA, and Richland Counties, WI, restricted against service from Dubuque to points in Paris and Potosi Townships, Grant County, WI. Transferee presently holds no authority from this commission; it does not seek section 210a(b) authority.

MC-FC-77900, filed October 18, 1978. Transferee: ULS, INC., doing business as UNITED LIMOUSINE SERVICE, P.O. Box 114, Raritan, NJ 08869. Transferor: Louis Santora, Jr., doing business as AAA United Limousine Service, P.O. Box 114, Raritan, NJ 08869. Representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincoln Road, Alexandria, VA 22312. Authority sought for purchase of the operating rights of transferor as set forth in Certificates Nos. MC-138141 (Sub-No. 2), (Sub-No. 3), and (Sub-No. 4), issued October 25, 1974, June 8, 1976, and March 7, 1978, respectively, as follows: Passengers and their baggage, in special operations in non-scheduled door-to-door service, limited to the transportation of not more than 7 passengers in any one vehicle, but not including the driver thereof, between in Somerset and Hunterdon Counties, NJ on the one hand, and, on the other, LaGuardia Airport and John F. Kennedy International Airport, NY, NY; passengers and their baggage, in the same vehicle with passengers in charter limousine operations, in nonscheduled, door-to-door service, limited to the transportation of not more than six (6) passengers in any one vehicle, not including the driver, between specified points in NJ on the one hand, and, on the other, NY, NY, and points in Nassau, Westchester and Putnam Counties, NY, and points in Philadelphia, Bucks, Montgomery and Delaware Counties, PA, restricted against the transportation of passengers and their baggage moving between points in Mercer County, NJ, on the one hand, and, on the other, LaGuardia Airport, John F. Kennedy International Airport at NY, NY and the Piers in the NY, NY commercial zone, as defined by the Commission, and North East Philadelphia Airport and Philadelphia International Airport at Philadelphia, PA; and passengers and their baggage and express and newspapers in the same vehicle with passengers, limited to the transportation of not more than ten (10) passengers in any one vehicle, not including the driver, between Clinton, NJ and John F. Kennedy Airport, NY, serving all intermediate points (except those on, east or north the junction of U.S. Hwy 1 and Interstate Hwy 287, near Edison, NJ, New Brunswick, NJ and the town of Somerset, NJ, on NJ Hwy 27, over specified routes, and be-

tween Clinton, NJ and Somerville, NJ, serving all intermediate points, over specified routes, restricted to traffic either originating at or destined to LaGuardia or John F. Kennedy Airports. Transferee presently holds no authority from this commission; it does not seek section 210a(b) authority.

MC-FC-77911, filed October 26, 1978. Transferee: LLOYD M. BRETT and GARY L. BRETT, a Partnership, doing business as BRETT FREIGHT SERVICE, 764 Jennifer Street, East Wenatchee, WA 98801. Transferor: Waterville Transfer Co., Waterville, WA 98858. Representative: Robert H. Scott, Jr., 530 North Main, Wenatchee, WA 98801. Authority sought for purchase of the operating rights of transferor as set forth in Certificates Nos. MC-33925, and MC-33925 (Sub-No. 7), issued March 29, 1957 and May 5, 1967, respectively, as follows: General commodities, with the usual exceptions, between specified points in WA. Transferee presently holds no authority from this commission; it does seek section 210a(b) authority.

MC-FC-77921, filed November 2, 1978. Transferee: LIVINGSTON TRANSPORTATION, LTD., 264 Tillson Avenue, Tillsonburg, ON, Canada N4G 3B6. Transferor: Waddick Transport Ltd., R. R. 6, Chatham, ON, Canada N7M 5J6. Representative: Miss Wilhelmina Boersma, Clark, Klein, Winter, Parsons & Prewitt, 1600 First Federal Building, Detroit, MI 48226. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC-139846 issued January 10, 1977, as follows: Liquid protein supplements, not intended for human consumption, in bulk, in tank vehicles, from Adrian, MI and Arcade, NY to ports of entry on the U.S.-Canada Boundary line located in Michigan and New York. Transferee presently holds authority in No. MC-112991 issued by the Commission. Application for temporary authority under Section 210a(b) has not been filed.

MC-FC-77924, filed November 6, 1978. Transferee: CARL S. ROSENBAUM, doing business as COAL TRANSPORT CO., 1509 Mart Drive, Little Rock, AR 72205. Transferor: Harrison W. Wood and Carl S. Rosenbaum, doing business as Coal Transport Co., (Susan Hearne Wood, Executrix), 1509 Mart Drive, Little Rock, AR 72205. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates No. MC-135885 (Sub-No. 1), issued May 1, 1973, as follows: Coal, between points in Franklin, Johnson, Logan and Pope Counties, AR, and from points in Franklin, Johnson,

## NOTICES

Logan and Pope Counties, AR to Fort Smith and Van Buren, AR. Transferee presently holds no authority from this commission; it does not seek section 210a(b) authority.

H. G. HOMME, JR.,  
Secretary.

[FR Doc. 78-33794 Filed 12-1-78; 8:45 am]

## [7035-01-M]

[Third Rev. Exception No. 2]

**ST. LOUIS SOUTHWESTERN RAILWAY CO. AND  
SOUTHERN PACIFIC TRANSPORTATION CO.**

Exception Under Section (a), Paragraph (1),  
Part (v) Second Revised Service Order No.  
1332

Decided: November 21, 1978.

*By the Board:* Because of recent work stoppages on the St. Louis Southwestern Railway Company (SSW) and on other connections of the Southern Pacific Transportation Company (SP), and due to derailments at Pine Bluff, Arkansas, New Orleans, Louisiana, Klamath Falls, Oregon, and

in the vicinity of Roseville, California, the SP and the SSW are temporarily unable to forward all cars within 60-hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

*It is ordered,* Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the SSW and the SP are required to forward loaded cars or empty foreign or private cars from the points named below within 72-Hours.

SSW: Pine Bluff, Arkansas.

SP: Eugene, Oregon, Roseville, California, West Colton, California.<sup>1</sup>

*Effective November 24, 1978.*

*Expires 11:59 p.m., November 30, 1978.*

JOEL E. BURNS,  
Chairman,  
Railroad Service Board.

[FR Doc. 78-33796 Filed 12-1-78; 8:45 am]

<sup>1</sup>Houston, Texas eliminated.

# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

## CONTENTS

	<i>Items</i>
Civil Aeronautics Board.....	1-6
Equal Employment Opportunity Commission.....	7
Federal Communications Commission .....	8, 9
Federal Deposit Insurance Corporation .....	10, 11
Federal Energy Regulatory Commission .....	12
Federal Mine Safety and Health Review Commission.....	13
Federal Trade Commission .....	14, 15
International Trade Commission .....	16
Interstate Commerce Commission .....	17
Nuclear Regulatory Commission .....	18

### [6320-01-M]

1

[M-181, amdt. 1; Nov. 28, 1978]

#### CIVIL AERONAUTICS BOARD.

**TIME AND DATE:** 10 a.m., November 30, 1978.

**PLACE:** Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 28. Docket 31977, Application of International Developers, Inc. (Japan) d.b.a. Toyo World Enterprises of California, Inc., for indirect foreign air carrier permit (Memo 8097-A, BIA, OGC).

**STATUS:** Closed.

#### PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** An application for an indirect foreign air carrier permit (foreign tour operator) was filed by International Developers, Inc. (Japan) d.b.a. Toyo World Enterprises of California, Inc., and was originally included on the agenda for November 16, 1978. It was deleted from that agenda because the Board wanted to consider whether to hold a closed or open meeting prior to discussion on the item. Through a misunderstanding, consideration of the application was not included in the agenda for November 30, 1978. Accordingly, the following Members have voted that item 28 be added to the November 30, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

This item will concern the development of Board policy toward charter operations of U.S. and foreign air carrier, both direct and indirect, operating between the United States and Japan. Premature public disclosure of opinions and evaluations could seriously compromise the ability of the United States to achieve an agreement which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 3106.5(9)(B) and that the meeting on this item be closed:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

#### PERSONS EXPECTED TO ATTEND

**Board Members.**—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

**Assistants to Board Members.**—Mr. Sanford Rederer, Mr. Elias Rodriguez, and Mr. Steve Lachter.

**Office of the General Counsel.**—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. William Adler, Mr. Michael Schopf, Mr. Peter B. Schwarzkopf, and Ms. Carol Light.

**Bureau of Pricing and Domestic Aviation.**—Ms. Barbara Clark.

**Bureau of Consumer Protection.**—Mr. Howard Schmeltzer, and Mr. Glenn Wienhoff.

**Bureau of International Aviation.**—Mr. Richard M. Loughlin, Ms. Sandy Gerson, Mr. Dean L. Johnson, Mr. Ronald Miller, and Mr. Edward Wilbur.

**Office of the Secretary.**—Mrs. Phyllis T. Kaylor and Ms. Deborah Lee.

#### GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 3106.5(9)(B) and that the meeting be closed to public observation.

PHIL BAKES, JR.,  
General Counsel.

[S-2445-78 Filed 11-30-78; 3:56 pm]

### [6320-01-M]

2

[M-181, Amdt. 2; Nov. 28, 1978]

#### CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the November 30, 1978, meeting agenda.

**TIME AND DATE:** 10 a.m., November 30, 1978.

**PLACE:** Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 25. Petition of British Caledonian Airways, Ltd., for review of staff action denying its request for special tariff permission to file a one-way cargo charter charge from Houston to Singapore (Memo 8305, BPDA, BIA, OGC).

**STATUS:** Open.

#### PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** Item 25 is being deleted in order to improve the draft after further staff consultation. Accordingly, the following Members have voted that agency business requires the deletion of item 25 from the November 30, 1978, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2446-78 Filed 11-30-78; 3:56 pm]

### [6320-01-M]

3

[M-181, Amdt. 3; Nov. 29, 1978]

#### CIVIL AERONAUTICS BOARD.

**TIME AND DATE:** 10 a.m., November 30, 1978.

**PLACE:** Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** \*29. (1) Dockets 32686, 33210, 33464, 33587, 33640, 33637, and 33709, Applications of TIA, Braniff, World and Aeroamerica for exemptions to serve various U.S.-Benelux, U.S.-Paris, U.S.-Germany, and U.S.-London markets. (2) Docket 32523, Petition of World Airways for Reconsid-

\*Was originally item 15 on the November 30, 1978 agenda.

eration of Order 78-9-2 to add Los Angeles as a coterminal point to the exemption giving World authority to serve the terminal point Amsterdam, the Netherlands and various U.S. coterminal points. (Memo 8303, BIA, BPDA, OGC, OEA, BCP).

STATUS: Closed.

**PERSON TO CONTACT:**

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** A formal Office of General Counsel request for closed meeting was not communicated to the Bureau of International Aviation until Friday, November 24, 1978, i.e., after the meeting agenda was typed by the Office of the Secretary. There was insufficient staff available on November 24 to draft the required notice. Accordingly, the following Members have voted that agency business requires that the Board vote that this Item be closed and to meet on less than 7 days' notice and that earlier announcement of the meeting was not possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer.

Consideration of these applications will involve aspects of our relationships with France and our negotiations with that country. Public disclosure, particularly to foreign governments with whom the United States is or will be negotiating, of the opinions, evaluations, and strategies of the Board and its staff could seriously compromise the ability of the United States Delegations to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that public observation of this item would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting on this item will be closed:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer.

**PERSONS EXPECTED TO ATTEND**

**Board Members.**—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

**Assistants to Board Members.**—Mr. Sanford Rederer, Mr. Elivas Rodriguez, and Mr. Steve Lachter.

**Office of the General Counsel.**—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edies, Mr. William Adler, Mr. Michael Schopf, Mr. Peter B. Schwarzkopf, and Ms. Carol Light.

**Bureau of Pricing and Domestic Aviation.**—Ms. Barbara Clark.

**Bureau of Consumer Protection.**—Mr. Howard Schmeltzer and Mr. Glenn Wienhoff.

**Bureau of International Aviation.**—Mr. Richard M. Loughlin, Ms. Sandy Gerson, Mr. Dean L. Johnson, Mr. Ronald Miller, and Mr. Edward Wilbur.

**Office of the Secretary.**—Mrs. Phyllis T. Kaylor and Ms. Deborah Lee.

**GENERAL COUNSEL CERTIFICATION**

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting be closed to public observation.

PHIL BAKES, JR.,  
General Counsel.

[S-2447-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

4

[M-181, Amdt. 4; Nov. 29, 1978]

**CIVIL AERONAUTICS BOARD.**

Notice of addition of items to the November 30, 1978, meeting agenda.

**TIME AND DATE:** 10 a.m., November 30, 1978.

**PLACE:** Room 1027, 1825 Connecticut Avenue, Washington, D.C. 20428.

**SUBJECT:**

4a. Docket 33013, ACTOA petition for regulation over all ground packages sold in conjunction with air transportation (OGC)

20a. Docket 33634; Petition of Aeroamerica, Inc., for reconsideration of Order 78-10-106 which denied Aeroamerica exemption authority to operate in the Seattle-Portland-Honolulu market pending resolution of certain consumer protection issues (BPDA, BCP).

STATUS: Open.

**PERSON TO CONTACT:**

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** In order to ensure that the Board have sufficient time to review the issues and still comply with the 120-day rule for disposing of petitions for rulemaking item 4a is being added to the November 30, 1978, agenda and no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

On October 26, the Board granted a request by Pan American to suspend service between a number of points, including the Seattle-Portland-Honolulu market. In granting the suspension, the Board also granted exemption authority in that market to United,

Braniff, and Hawaiian because of the immediate need for replacement air service. Aeroamerica had requested similar exemption authority, but the Board denied its request because the carrier had not provided adequate financial security for its passengers. Aeroamerica has worked to correct this problem, and has requested reconsideration of the denial. In order to facilitate the replacement of air service in this market, we believe that Aeroamerica's petition should come before the Board as soon as possible. Accordingly, the following Members have voted that agency business requires the addition of this item and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

S-2448-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

5

[M-181, Amdt. 5; Nov. 29, 1978]

**CIVIL AERONAUTICS BOARD.**

Notice of addition of item to the November 30, 1978, agenda.

**TIME AND DATE:** 10 a.m., November 30, 1978.

**PLACE:** Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 19a. Docket 33889—Procedures for handling dormant authority applications (BPDA).

STATUS: Open.

**PERSON TO CONTACT:**

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** The staff has been informed that certain markets will become dormant next week, and the Board has to have procedures to handle multiple applications in effect prior to that time. In view of the large volume of work on dormant authority the staff was unable to prepare an order any earlier. Accordingly, the following Members have voted that agency business requires the addition of item 19a to the November 30, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

[S-2449-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

6

[M-181, Amdt. 6; Nov. 29, 1978]

## CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the November 30, 1978, meeting agenda.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 20. Docket 32774, Norfolk's Petition for an Investigation of United's Service Cuts in the Norfolk-Washington market. (Memo 8290, BPDA, OCCR).

STATUS: Open.

## PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

## SUPPLEMENTARY INFORMATION:

In view of some questions raised by the Office of General Counsel, the staff would like to reevaluate the memorandum before it is discussed at a Board Meeting. Accordingly, the following Members have voted that item 20 be deleted from the November 30, 1978, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen  
Member, Richard J. O'Melia  
Member, Elizabeth E. Bailey  
Member, Gloria Schaffer

## PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey, and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. Sanford Rederer, Mr. Elias Rodriguez, and Mr. Steve Lachter.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. William Adler, Mr. Michael Schopf, Mr. Peter B. Schwarzkopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation.—Ms. Barbara Clark.

Bureau of Consumer Protection.—Mr. Howard Schmeltzer and Mr. Glenn Wienhoff.

Bureau of International Aviation.—Mr. Richard M. Loughlin, Ms. Sandy Gerson, Mr. Dean L. Johnson, Mr. Ronald Miller, and Mr. Edward Wilbur.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah Lee.

## GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting be closed to public observation.

PHIL BAKES, Jr.,  
General Counsel.

IS-2450-78 Filed 11-30-78; 3:56 pm]

[6570-06-M]

7

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, December 5, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

## MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 78-7-FOIA-171, concerning a request by an employer charged with discrimination for copies of each letter from every charging party requesting information contained in the investigative file, and for copies of each nondisclosure agreement executed by every charging party supplied information from the file, and

2. Freedom of Information Act Appeal No. 78-9-FOIA-222, concerning a request by a party who filed a charge of discrimination for copies of all paperwork pertaining to that charge.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

## CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued November 28, 1978.

[S-2435-78 Filed 11-30-78; 11:19 am]

[6712-01-M]

8

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 30, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted:

## Agenda, Item No., and Subject

General—4—Amendment of Parts 1, 81, and 83 of the Commission's Rules to implement a system of temporary authorizations for ship stations in the Maritime Services.

General—5—Report to the Commission regarding public participation in FCC Rule-making Proceeding Workshops.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 29, 1978.

[S-2436-78 Filed 11-30-78; 11:19 am]

[6712-01-M]

9

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, December 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

## MATTER TO BE CONSIDERED:

## Agenda, Item No., and Subject

General—1—Recommended U.S. proposals for the 1979 World Administrative Radio Conference.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 28, 1978.

[S-2437-78 Filed 11-30-78; 11:19 am]

[6714-01-M]

10

## FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

## MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings. Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Tampa, Fla., in connection with the liquidation of the Hamilton Bank & Trust Co., Atlanta, Ga.

Hull, Towill, Norman, Barrett & Johnson, Augusta, Ga., in connection with the liquidation of First Augusta Bank & Trust Co., Augusta, Ga.

Cooley, Shrair, Alpert & Labovitz, P.C., Springfield, Mass., in connection with the liquidation of Chicopee Bank & Trust Co., Chicopee, Mass.

Francis & Doval, Hato Rey, P.R., in connection with the liquidation of Banco Credito y Ahorro Ponceño, Ponce, P.R. (two memorandums).

Memorandum and resolution proposing the final adoption of amendments to Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," to increase deposit insurance coverage to a maximum of \$100,000 on time and savings deposits containing IRA and Keogh funds.

Memorandum and resolution proposing the final adoption of "Truth in Lending Enforcement Guidelines."

Memorandum and resolution proposing the final adoption of revisions in the reporting requirements for Reports of Condition and Reports of Income for small banks.

Memorandum and resolution proposing the adoption of a Liquidation Graded Salary Plan.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Acting Chairman.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

#### CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary,  
202-389-4446.

[S-2439-78 Filed 11-30-78; 11:52 am]

[6714-01-M]

11

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., December 7, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

#### MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance: Higginsville State Bank, a proposed new bank to be located at 401-415 Fairground Avenue, Higginsville, Mo., for Federal deposit insurance.

Applications for consent to establish branches:

Central Plaza Bank & Trust Co., St. Petersburg, Fla., for consent to establish a branch at 1001 West Bay Drive, Largo, Fla.

United Mutual Savings Bank, New York, N.Y., for consent to establish a branch at

556 Main Street, Islip (Unincorporated Area), Town of Islip, N.Y.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

#### CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary,  
202-389-4446.

[S-2440-78 Filed 11-30-78; 11:52 am]

[6740-02-M]

12

NOVEMBER 29, 1978.

#### FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., December 6, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

#### MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

#### CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary,  
telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant

to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—210TH MEETING, DECEMBER 6, 1978, REGULAR MEETING (10 A.M.)

CAG-1. Docket No. RP72-110 (PGA No. 78-12B), Algonquin Gas Transmission Co.

CAG-2. Docket Nos. AR64-2, et al., AR61-2, AR69-1, et al., AR67-1, et al., G-1964, G-12706, G-18841, RP65-59, RP69-13, RP70-29, et al., and RP72-98, et al., Texas Eastern Transmission Corp.

CAG-3. Docket No. RP77-124, McCulloch Interstate Gas Corp.

CAG-4. Docket No. G-5766, Continental Oil Co., Docket No. CI78-366, Gas Producing Enterprises, Inc., Docket No. CI78-473, Texaco, Inc., Docket No. CI78-474, Texaco, Inc., Docket No. CI78-845, Texaco, Inc.

CAG-5. Docket No. CS66-72, Gill-Mac, Inc.

CAG-6. Docket No. CI78-467, Anadarko Production Co.

CAG-7. Docket Nos. G-9279, et al., Amoco Production Co., et al.

CAG-8. Docket Nos. G-11161, et al., McCulloch Oil & Gas Corp. (successor to McCulloch Oil Corp.)

CAG-9. Docket Nos. G-2712, et al., Cities Service Co. (successor to Cities Service Oil Co.), et al.

CAG-10. Docket No. CP75-110, Washington Natural Gas Co., Docket No. CP75-287, Northwest Pipeline Corp.

CAG-11. Docket No. CP77-627, Tennessee Gas Pipeline Co., Columbia Gulf Transmission Corp.

CAG-12. Docket Nos. CP77-52 and CP77-544, Trunkline Gas Co.

CAG-13. Docket Nos. CP78-490, CP78-499, and CP78-523, Tennessee Gas Pipeline Co., a division of Tenneco Inc., Docket No. CP78-508, Transcontinental Gas Pipe Line Corp.

CAG-14. Docket No. CP78-350, Transcontinental Gas Pipe Line Corp.

CAG-15. Docket No. CP78-534, Natural Gas Pipeline Co. of America.

CAG-16. Docket No. CP78-519, Natural Gas Pipeline Co. of America.

CAG-17. Docket No. CP77-408, El Paso Natural Gas Co., Docket No. CP78-411, Southwest Gas Corp., Docket No. CP78-380, Northwest Pipeline Corp.

CAG-18. Docket No. CP78-345, Northern Natural Gas Co., Docket No. CP78-403, Natural Gas Pipeline Co. of America, the Peoples Gas Light & Coke Co.

CAG-19. Docket No. CP78-416, Northern Natural Gas Co., Southern Natural Gas Co., United Gas Pipe Line Co.

CAG-20. Docket No. CP78-524, Natural Gas Pipeline Co. of America.

CAG-21. Docket No. CP78-279, Southwest Gas Corp.

CAG-22. Docket No. CP78-192, Southern Natural Gas Co.

CAG-23. Docket Nos. CP78-202 and CP78-203, Northwest Pipeline Corp., Docket Nos. CP78-273 and CP78-274, Colorado Interstate Gas Co.

CAG-24. Docket No. CP78-498, United Gas Pipe Line Co.

CAG-25. Docket No. CP78-408, Texas Gas Transmission Corp., Western Kentucky Gas Co., National Pipeline Co., Orbit Gas Co.

CAG-26. Docket Nos. CP60-94, CP66-20, CP69-222 (Phase II), CP70-185 and CP74-318, Tennessee Gas Pipeline Co., a division of Tenneco Inc.

- CAG-27. Docket No. CP78-451, El Paso Natural Gas Co., Docket No. CP78-496, Northern Natural Gas Co.  
 CAG-28. Docket Nos. CP77-222 and CP78-540, Arkansas Louisiana Gas Co.  
 CAG-29. Docket No. CP78-439, Natural Gas Pipeline Co. of America.  
 CAG-30. Docket No. CP78-528, Northwest Pipeline Corp.  
 CAG-31. Docket No. CP78-495, Panhandle Eastern Pipe Line Co.  
 CAG-32. Docket No. CP78-67, Columbia Gas Transmission Corp.  
 CAG-33. Docket No. CP78-435, Northwest Pipeline Corp.

## I. PIPELINE RATE MATTERS

- RP-1. Docket No. RP72-23, et al., Trunkline Gas Co.  
 RP-2. Docket Nos. RP72-23, et al. and RP73-35, Trunkline Gas Co.  
 RP-3. Docket No. RP72-133 (PGA77-2), United Gas Pipe Line Co.  
 RP-4. Docket No. CP74-289, et al., El Paso Natural Gas Co.

## II. PIPELINE CERTIFICATE MATTERS

- CP-1. Docket No. CP73-340, Colorado Interstate Gas Co., Docket No. CP74-243, Northern Natural Gas Co., Docket No. CI74-430, Colorado Oil & Gas Corp., and Gas Producing Enterprises, Inc.  
 CP-2. Docket No. CP78-172, El Paso Natural Gas Co., Docket No. CP78-257, Western Gas Transmission Co., Docket No. CP76-87, El Paso Natural Gas Co.  
 CP-3. Docket No. CP79-9, The Montana Power Co.  
 CP-4. Docket Nos. CP76-285, et al., Mountain Fuel Resources, Inc., Docket No. CP76-87, El Paso Natural Gas Co., Docket No. CP78-172, El Paso Natural Gas Co., Docket No. CP78-257, Western Gas Interstate Co., Docket No. CI78-506, Supron Energy Corp.  
 CP-5. Docket No. RP71-119, Panhandle Eastern Pipe Line Co., Docket No. RP74-31-24, Panhandle Eastern Pipe Line Co. (Anchor Hocking Corp.), Docket No. TC78-34, Panhandle Eastern Pipe Line Co. (Hercules, Inc.).  
 CP-6. Docket No. CP76-16, Tenneco LNG Inc.

## MISCELLANEOUS AGENDA—210TH MEETING, DECEMBER 6, 1978, REGULAR MEETING

- CAM-1. ERA's proposed rulemaking amending the mandatory petroleum price regulations to allow refiners to allocate increased costs to gasoline on a greater than pro rata volumetric basis.  
 CAM-2. Modification of 18 CFR 35.3 to conform to section 207(a) of the Public Utility Regulatory Policies Act of 1978 which amends section 205(d) of the Federal Power Act.  
 CAM-3. Definition of powerplant design capacity pursuant to section 103(a)(18)(D) of the Powerplant and Industrial Fuel Use Act of 1978.  
 CAM-4. Missouri Power & Light Co.  
 CAM-5. Appalachian Power Co.  
 CAM-6. Kanawha Valley Power Co.  
 CAM-7. Florida Gas Transmission Co.  
 CAM-8. Transcontinental Gas Pipe Line Corp.  
 CAM-9. Colonial Pipeline Co.  
 CAM-10. United Gas Pipe Line Co.  
 CAM-11. Approval of accounting for amortization of electric plant acquisition adjustment.

- M-1. Docket No. RM78- , Proposed regulations modifying the time for Commission action on RD & D plans.  
 M-2. Docket No. RM78-17, Procedures for review by the Federal Energy Regulatory Commission of adjustment request denials by the Secretary of Energy.  
 M-3. Staff recommendation on the Revenue Act of 1978 which reduces the statutory corporate Federal income tax rate from 48% to 46%.

## POWER AGENDA—210TH MEETING, DECEMBER 6, 1978, REGULAR MEETING

- CAP-1. Docket No. ER 78-321, New York State Electric & Gas Corp.  
 CAP-2. Docket No. ER78-581, Columbus & Southern Ohio Electric Co.  
 CAP-3. Docket No. E-9454, Public Service Co. of New Mexico.  
 CAP-4. Docket No. ES78-58, Northwestern Public Service Co.  
 CAP-5. Project No. 2264, Chtanika Power Co., Inc.  
 CAP-6. Project No. 2413, Georgia Power Co.

## I. ELECTRIC RATE MATTERS

- ER-1. Docket No. ER77-278, Arkansas Power & Light Co.  
 ER-2. Docket No. E-8570, Southern California Edison Co.  
 ER-3. Docket No. ER78-337, and ER78-338, Public Service Co. of New Mexico.  
 ER-4. Docket No. ID-1823, Robert P. Reuss.  
 ER-5. Docket No. ID-1709, Willis C. Fitkin. Docket No. ID-1710, William Cyrus MacInnes.  
 ER-6. Docket No. ID-1758, Charles T. Fisher, III. Docket No. ID-1759, Richard C. Gerstenberg.

## II. LICENSED PROJECT MATTERS

- P-1. Docket No. E-9557, Wisconsin Valley Improvement Co.

KENNETH F. PLUMB,  
 Secretary.

[S-2438-78 Filed 11-30-78; 11:19 am]

[6735-01-M]

13

NOVEMBER 30, 1978.

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9 a.m., December 7, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor (MSHA) v. Shamrock Coal Co.*, Docket Nos. BARB 78-82-P, 78-83-P, 78-84-P, 78-85-P, 78-98-P, 78-99-P (petition for discretionary review).
2. *Republic Steel Corp.*, Docket No. IBMA 76-78 (remanded from the Court of Appeals for the District of Columbia Circuit).
3. *Cowin and Company, Inc.*, Docket No. IBMA 75-57 (remanded from the Court of Appeals for the District of Columbia Circuit).

4. *Republic Steel Corp.*, Docket No. IBMA 77-39 (terminating stay of proceeding).

## CONTACT PERSON FOR FURTHER INFORMATION:

Donald Terry, 202-653-5644.

[S-2444-78 Filed 11-30-78; 3:56 pm]

[6750-01-M]

14

## FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, December 7, 1978.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

## MATTERS TO BE CONSIDERED:

Portions open to public:

1. Oral argument in *Amway Corp.*, Docket 9023.

Portions closed to the public:

2. Executive Session to discuss oral argument in *Amway Corp.*, Docket 9023.

## CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-2441-78 Filed 11-30-78; 2:12 pm]

[6750-01-M]

15

## FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, December 8, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Staff's recommendations on proposed trade regulation rule on food advertising, phase II.

## CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-2442-78 Filed 11-30-78; 2:12 pm]

## SUNSHINE ACT MEETINGS

[7020-02-M]

16

[USITC SE-78-601]

UNITED STATES INTERNATIONAL  
TRADE COMMISSION.TIME AND DATE: 11 a.m., Tuesday,  
December 12, 1978.PLACE: Room 117, 701 E Street NW.,  
Washington, D.C. 20436.STATUS: Parts of this meeting will be  
open to the public. The rest of the  
meeting will be closed to the public.

## MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
  - (a) Computers and integrated circuits (Docket No. 541).
  - (b) Crankpin grinders (Docket No. 542).
  - (c) Textiles from Uruguay, Columbia, and Brazil (Docket Nos. 544, 545, and 546).
6. Any items left over from previous agenda.

Portions closed to the public:

5. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE IN-  
FORMATION:Kenneth R. Mason, Secretary, 202-  
523-0161.

[S-2443-78 Filed 11-30-78; 3:56 pm]

[7035-01-M]

17

INTERSTATE COMMERCE COM-  
MISSION.TIME AND DATE: 9 a.m., Wednesday,  
December 6, 1978.PLACE: Hearing Room "B", Interstate  
Commerce Commission Building, 12th  
and Constitution Avenue NW., Wash-  
ington, D.C. 20423.STATUS: Oral argument (open to  
public).MATTER TO BE CONSIDERED: Ex  
Parte No. 357—Increased freight rates  
and charges nationwide—8 percent.CONTACT PERSON FOR MORE IN-  
FORMATION:Douglas Baldwin, Director, Office of  
Communications, telephone 202-275-  
7252.The Commission's professional staff  
will be available to brief news media  
representatives on conference issues at  
the conclusion of the meeting.

[S-2434-78 Filed 11-30-78; 11:19 am]

[7590-01-M]

18

NUCLEAR REGULATORY COM-  
MISSIONTIME AND DATE: December 1 and 7,  
1978PLACE: Commissioners' Conference  
Room, 1717 H St., N.W., Washington,  
D.C.

STATUS: Open/Closed

## MATTERS TO BE CONSIDERED:

Friday, December 1

11:00 a.m.

1. Affirmation of Order in Offshore Power  
Systems (Approx 10 min) (PUBLIC  
MEETING)

Thursday, December 7

9:30 a.m.

1. Discussion of Sua Sponte Review Stand-  
ards and Handling of Generic Unre-  
solved Safety Issues (Approx 1 hr)  
(PUBLIC MEETING)
2. Discussion of Policy Statement on Al-  
ternative Site Evaluation Under NEPA  
for Nuclear Generating Stations  
(Approx 1 hr) (PUBLIC MEETING)

1:00 p.m.

1. Briefing by Exxon on Its Laser Isotope  
Separation Process (Approx 1½ hrs)  
(CLOSED-Exemption 4)
2. Discussion of Bailly (Approx ½ hr)  
(Open-Closed Status to be Deter-  
mined) (TENTATIVE)
3. Discussion of Personnel Matter (Approx  
2 hrs) (CLOSED-Exemption 6)

ADDITIONAL INFORMATION:  
Before the December 1 meeting, it will  
be necessary for the Commission to  
vote to hold the meeting on less than  
7 days notice.CONTACT PERSON FOR MORE IN-  
FORMATION: Roger Tweed (202)  
634-1410ROGER M. TWEED,  
Office of the Secretary.

NOVEMBER 30, 1978.

[S-2451-78 Filed 12-1-78; 9:10 am]

# Register Federal Paper

MONDAY, DECEMBER 4, 1978  
PART II



---

CUMULATIVE LIST  
OF PUBLIC LAWS  
APPROVED BY THE  
PRESIDENT DURING  
THE SECOND  
SESSION OF THE  
95TH CONGRESS

# Public Laws

The following is a cumulative list of all public laws for the second session of the 95th Congress. Each law as it was received by the Office of the Federal Register was announced in the Reminders section of the daily Federal Register.

This cumulative list gives the Presidential approval date, bill number, public law number, permanent citation to the future U.S. Statutes at Large volume in which the law will appear, subject matter, and current price. In citing to a law in the U.S. Statutes at Large volume, the word "Stat." should be used between the volume number and page number shown below. For example: 92 Stat. 3.

The text of these laws is not printed in the Federal Register. Copies of the laws in individual pamphlet form, called "slip laws," may be ordered from the Superintendent of Documents, U.S. Government Printing Office. An order blank is printed at the end of this list for your convenience.

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Feb. 3	H.R. 7691	95-224	92:3	Federal Grant and Cooperative Agreement Act of 1977. ....	\$ .50
Feb. 6	S. 1585	95-225	92:7	Protection of Children Against Sexual Exploitation Act of 1977.....	.50
Feb. 7	H.R. 10532	95-226	92:10	Emergency drought relief measures, construction extension.....	.50
Feb. 10	H.R. 5322	95-227	92:11	Black Lung Benefits Revenue Act of 1977. ....	.80
	H.R. 5054	95-228	92:25	Executive agencies, apportionment requirements, elimination.....	.50
Feb. 14	H.J. Res. 386	95-229	92:26	Historic event or personality during 1777, Bicentennial commemorative medals. ....	.50
Feb. 15	H.R. 2719	95-230	92:28	Middle Rio Grande Conservancy District, N. Mex., payment contract.....	.50
	H.R. 5798	95-231	92:29	Rail Public Counsel, appropriation authorization....	.50
Feb.17	S. 1509	95-232	92:30	Indians, certain pueblos, N. Mex., lands in trust.....	.50
Feb.20	S. 1360	95-233	92:32	National Forest Management Act of 1976, amendment. ....	.50
Feb.21	H.R. 7442	95-234	92:33	Communications Act Amendments of 1978.....	.50
	H.R. 7766	95-235	92:37	D.C., public air space use agreement.....	.50
	S. 266	95-236	92:38	Radiation exposure, remedial action.....	.50
Feb.24	H.R. 3454	95-237	92:40	Endangered American Wilderness Act of 1978.....	.70
Feb.25	S. 1340	95-238	92:47	Department of Energy Act of 1978-Civilian Applications.....	1.50
Mar. 1	H.R. 4544	95-239	92:95	Black Lung Reform Act of 1977. ....	.70
Mar. 7	H.R. 9375	95-240	92:107	Supplemental Appropriations Act, 1978. ....	.70
Mar. 8	H.R. 10368	95-241	92:119	Federal Aviation Act of 1958, amendment. ....	.50
Mar. 10	H.R. 8638	95-242	92:120	Nuclear Non-Proliferation Act of 1978. ....	1.30
Mar. 13	S. 838	95-243	92:153	Indian Claims Commission Act, amendment. ....	.50
Mar. 14	S. 2076	95-244	92:154	Grand Canyon National Park, Ariz. ....	.50
	H.R. 9851	95-245	92:156	Federal Aviation Act of 1958, amendment. ....	.50
Mar. 15	H.J. Res. 746	95-246	92:157	Supplemental appropriations for Department of Energy. ....	.50
Mar. 21	S. 773	95-247	92:158	Wichita Indian Tribe, Okla., land compensation claims. ....	.50
	H.R. 8803	95-248	92:159	National Trails System Act, amendment.....	.50
Mar. 27	S. 1671	95-249	92:162	Absaroka-Beartooth Wilderness, Custer and Gallatin National Forests, Mont., designation.....	.50
	H.R. 3813	95-250	92:163	Redwood National Park, employment program.....	.90

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Mar. 27	H.R. 6975	95-251	92:183	Hearing examiners, reclassified as administrative law judges.....	.50
	H.R. 11518	95-252	92:185	Public debt limit, temporary increase.....	.50
	H.J. Res. 715	95-253	92:186	"Sun Day", designation authorization.....	.50
Apr. 4	H.R. 10982	95-254	92:187	Budget authority rescissions.....	.50
	H.J. Res. 796	95-255	92:188	Disaster relief, supplemental appropriation.....	.50
Apr. 6	H.R. 5383	95-256	92:189	Age Discrimination in Employment Act Amendments of 1978.....	.60
Apr. 7	H.R. 9169	95-257	92:194	Fishing vessels, obligations for financing.....	.50
	H.R. 11055	95-258	92:195	Agriculture Act of 1949, extension of certain payments.....	.50
Apr. 17	H.R. 5981	95-259	92:196	American Folklife Center, appropriation authorization.....	.50
	H.R. 2960	95-260	92:197	Signers of the Declaration of Independence, memorial.....	.50
	H.R. 8358	95-261	92:199	Depository libraries, designation.....	.50
	H.J. Res. 770	95-262	92:200	Education Day, U.S.A., designation authorization..	.50
	S.J. Res. 124	95-263	92:201	National Oceans Week, designation authorization...	.50
Apr. 18	H.R. 2540	95-264	92:202	Umatilla Indian Reservation, Oreg., inheritance of trust or restricted lands.....	.50
Apr. 24	H.R. 4979	95-265	92:203	Mineral, Nev., land conveyance.....	.50
	H.R. 6693	95-266	92:205	Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.....	.60
	H.J. Res. 578	95-267	92:212	National Architectural Barrier Awareness Week, designation authorization.....	.50
	H.R. 9179	95-268	92:213	Overseas Private Investment Corporation Amendments Act of 1978.....	.60
Apr. 26	H.R. 7744	95-269	92:218	Rivers and harbors, improvements.....	.50
Apr. 27	S. 2452	95-270	92:220	Hubert H. Humphrey Institute of Public Affairs and Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act.....	.50
Apr. 28	S. 2597	95-271	92:221	U.S. District Court for the Eastern District of New York, relocation.....	.50
May 3	H.J. Res. 649	95-272	92:222	White House Conferences on the Arts and the Humanities, Presidential authorization.....	.60
May 8	S. 1617	95-273	92:228	National Ocean Pollution Research and Development and Monitoring Planning Act of 1978.....	.60
May 10	S.J. Res. 106	95-274	92:233	A.L. Higginbotham, Jr., reappointment to Smithsonian Institution.....	.50
	S.J. Res. 107	95-275	92:234	John P. Austin, reappointment to Smithsonian Institution.....	.50
	S.J. Res. 108	95-276	92:235	Anne L. Armstrong, reappointment to Smithsonian Institution.....	.50
May 12	S. 2220	95-277	92:236	Library of Congress Trust Fund Board, designation of Treasury Department member.....	.50
	S. 917	95-278	92:237	Gund Ranch, Grass Valley, Nev., conveyance of certain adjacent lands to University of Nevada.....	.50

## Public Laws

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
May 15	H.R. 6782	95-279	92:240	Wheat, feed grain and upland cotton producers, emergency assistance. ....	.50
	S. 482	95-280	92:244	Zuni Indian Tribe, N. Mex., lands in trust and transfer of jurisdiction over land claims of such tribe to the Court of Claims. ....	.50
	S. 661	95-281	92:246	Modoc, Wyandotte, Peoria and Ottawa Indian Tribes, Okla., reinstatement as Federally supervised and recognized Indian tribes.....	.50
May 19	H.J.Res. 859	95-282	92:248	Making supplemental appropriations for the United States Railway Association for the fiscal year ending September 30, 1978, and for other purposes.....	.50
May 21	H.R. 8331	95-283	92:249	Securities Investor Protection Act Amendments of 1978. ....	1.10
	H.J.Res. 873	95-284	92:276	Making an urgent supplemental appropriation for the disaster loan program of the Small Business Administration for the fiscal year ending September 30, 1978, and for other purposes.....	.50
May 25	S. 1568	95-285	92:277	To name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West".....	.50
May 26	H.R. 10392	95-286	92:278	To establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.....	.50
May 30	S.J. Res. 137	95-287	92:280	Reaffirming the unity of the North Atlantic Alliance commitment. ....	.50
June 5	H.R. 9005	95-288	92:281	District of Columbia Appropriation Act, 1978.....	.60
	S. 2370	95-289	92:289	To remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972.....	.50
	H.R. 11662	95-290	92:290	To provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes. ....	.80
June 12	H.R. 11370	95-291	92:304	To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV-A, VI, X, XIV, and XVI of the Social Security Act. ....	.50
June 13	H.R. 8423	95-292	92:307	To amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of the Act, and for other purposes.....	.70
	S. 1792	95-293	92:317	To amend the Administrative Conference Act.....	.50
June 14	S.J. Res. 140	95-294	92:318	To authorize and request the President to proclaim June 11, 1978, as "American University Press Day" to commemorate the centennial of university press publishing in America. ....	.50

## Public Laws

56767

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
June 16	H.R. 11657	95-295	92:319	To amend the Central, Western, and South Pacific Fisheries Development Act to increase the appropriation authorization through fiscal year 1982, to expand the United States fisheries development effort, and to cooperate in the formation and research of the South Pacific regional fishery agency, and for other purposes. . .	.50
June 19	S. 1640	95-296	92:321	To designate the Mike Monroney Aeronautical Center. ....	.50
	H.R. 130	95-297	92:322	Petroleum Marketing Practices Act. ....	.90
June 26	S. 2553	95-298	92:339	Maritime Appropriation Authorization Act for Fiscal Year 1979. ....	.50
	H.R. 5493	95-299	92:341	To extend until October 1, 1980, the appropriation authorizations for the Great Dismal Swamp and San Francisco Bay National Wildlife Refuges. ....	.50
	H.R. 10884	95-300	92:342	To authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981. ....	.50
	H.J.Res. 944	95-301	92:343	Making urgent grain inspection supplemental appropriations for the Department of Agriculture, Federal Grain Inspection Service, for the fiscal year ending September 30, 1978. ....	.50
	S. 2380	95-302	92:344	To amend the Intervention on the High Seas Act to implement the protocol relating to intervention on the High Seas in cases of marine pollution by substances other than oil, 1973. ....	.50
June 29	H.R. 5176	95-303	92:346	To lower the duty on levulose until the close of June 30, 1980. ....	.50
	H.R. 10823	95-304	92:347	To amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1979, and for other purposes. ....	.50
	S. 2973	95-305	92:348	Authorizing appropriation to the Secretary of the Interior for services necessary to the non-performing arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. ....	.50
June 30	H.R. 11779	95-306	92:349	Renewable Resources Extension Act of 1978. ....	.50
	H.R. 11778	95-307	92:353	Forest and Rangeland Renewable Resources Research Act of 1978. ....	.60
	H.R. 11465	95-308	92:358	To authorize appropriations for the United States Coast Guard for fiscal year 1979, and for other purposes. ....	.50
	H.J. Res. 995	95-309	92:361	To designate Sunday, June 25, 1978, as "National Brotherhood Day" . ....	.50
	S. 2033	95-310	92:362	To provide for conveyance of certain lands in the Wenatchee National Forest, Washington, by the Secretary of Agriculture. ....	.50
	S. 2351	95-311	92:363	To designate the proposed new Veterans' Administration Hospital in Little Rock, Arkansas, as the "John L. McClellan Memorial Veterans' Hospital", and for other purposes. ....	.50
	S.J. Res. 128	95-312	92:364	Designating July 1, 1978, as "Free Enterprise Day" . ....	.50
July 1	H.R. 11777	95-313	92:365	Cooperative Forestry Assistance Act of 1978. ....	.70

## Public Laws

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
July 1	H.R. 12571	95-314	92:376	To amend the Fishery Conservation Zone Transition Act in order to give effect to the Reciprocal Fisheries Agreement for 1978 between the United States and Canada. ....	.50
July 4	H.R. 11713	95-315	92:377	Small Business Energy Loan Act. ....	.50
July 10	H.R. 10730	95-316	92:380	To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981. ....	.50
	H.R. 3447	95-317	92:382	To amend chapter 83 of title 5, United States Code, to grant an annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant. ....	.50
	H.R. 3755	95-318	92:384	To provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes. ....	.50
July 11	S. 2401	95-319	92:386	Emergency Interim Consumer Product Safety Standard Act of 1978.....	.60
July 21	H.R. 2176	95-320	92:391	Federal Banking Agency Audit Act. ....	.50
	H.R. 9757	95-321	92:394	To impose a moratorium on any increase in the public lands grazing fee for the 1978 grazing year, and for other purposes. ....	.50
	H.R. 11232	95-322	92:395	To authorize appropriations to carry out the Standard Reference Data Act, and to authorize appropriations for the National Bureau of Standards. ....	.50
July 28	H.R. 3489	95-323	92:396	To amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nomination for appointments to the Merchant Marine Academy, and for other purposes. ....	.50
	H.R. 4270	95-324	92:397	To designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building".....	.50
	H.J. Res. 613	95-325	92:398	To authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day".....	.50
	H.R. 12637	95-326	92:399	To amend the North Pacific Fisheries Act of 1954...	.60
	S. 1291	95-327	92:407	To declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes. ....	.50
	S. 1582	95-328	92:409	Relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States.....	.50

## Public Laws

56769

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
July 28	S. 947	95-329	92:412	To declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma.....	.50
July 31	H.J. Res. 1024	95-330	92:413	Making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.....	.50
Aug. 2	H.R. 11877	95-331	92:414	Peace Corps Act Amendments of 1978.....	.50
	H.J. Res. 945	95-332	92:417	Making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978.....	.50
Aug. 3	H.R. 13385	95-333	92:419	To provide for a temporary increase in the public debt limit.....	.50
Aug. 4	H.R. 11504	95-334	92:420	Agricultural Credit Act of 1978.....	.80
	H.R. 12933	95-335	92:435	Department of Transportation and Related Agencies Appropriation Act, 1979.....	.80
	H.R. 10569	95-336	92:451	Alcohol and Drug Abuse Education Amendments of 1978.....	.60
	S. 785	95-337	92:455	To declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.....	.50
Aug. 8	H.R. 11832	95-338	92:458	To authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes.....	.50
	H.R. 12426	95-339	92:460	New York City Loan Guarantee Act of 1978.....	.60
Aug. 11	H.R. 12138	95-340	92:468	To name a certain Federal building in Laguna Niguel, California, the "Chet Holifield Building".	.50
	S.J.Res. 102	95-341	92:469	American Indian Religious Freedom.....	.50
	S. 920	95-342	92:471	Relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma.....	.50
	S. 2463	95-343	92:473	To amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes.....	.50
Aug. 15	H.R. 8336	95-344	92:474	To authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes....	.60
	H.R. 7581	95-345	92:481	To amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative telephone company income from nonmember telephone companies, and for other purposes.....	.50
Aug. 17	S. 2424	95-346	92:485	To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.....	.50
Aug. 18	H.J.Res. 946	95-347	92:486	To designate October 7, 1978, as "National Guard Day".....	.50

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Aug. 18	S. 2821	95-348	92:487	To authorize appropriations for certain insular areas of the United States, and for other purposes.....	.70
	H.J.Res. 963	95-349	92:497	Designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day".....	.50
	H.J.Res. 682	95-350	92:498	To provide for the designation of a week as "National Lupus Week".....	.50
Aug. 20	H.R. 2777	95-351	92:499	National Consumer Cooperative Bank Act. ....	.80
	H.R. 10787	95-352	92:515	To authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management. ....	.50
Aug. 28	H.R. 11579	95-353	92:518	To designate the Veterans' Administration center located at South First Street, Temple, Texas, as the "Olin E. Teague Veterans' Center"; and for other purposes.....	.50
	H.R. 10732	95-354	92:519	To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.....	.50
Sept. 8	H.R. 13467	95-355	92:523	Second Supplemental Appropriations Act, 1978. ....	1.50
	H.R. 12602	95-356	92:565	Military Construction Authorization Act, 1979.....	1.10
	H.R. 3532	95-357	92:591	To amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers. ....	.50
	H.R. 7161	95-358	92:592	To amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program. ....	.50
	H.R. 8471	95-359	92:593	To authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the United States Ship Wyoming without restriction as to the place of such exhibition.....	.50
Sept. 9	S. 2543	95-360	92:594	To amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails. ....	.50
Sept 10	H.R. 8397	95-361	92:595	To provide that a certain tract of land in Pinal County, Arizona, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation. ....	.50
Sept. 11	H.R. 185	95-362	92:596	To amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment. ....	.50
	H.R. 12106	95-363	92:597	Independent Safety Board Act Amendment of 1978. ....	.50
Sept. 15	H.J.Res. 773	95-364	92:598	Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week". ....	.50

## Public Laws

56771

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Sept. 15	H.R. 8342	95-365	92:599	To amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality.....	.50
	H.R. 8771	95-366	92:600	To amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.....	.50
Sept. 17	H.R. 6669	95-367	92:601	National Climate Program Act.....	60
	H.R. 2931	95-368	92:606	To amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes.....	.50
Sept. 18	H.R. 10899	95-369	92:607	International Banking Act of 1978.....	.90
	H.R. 12240	95-370	92:626	Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979.....	.50
	H.J.Res. 1014	95-371	92:628	Designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust".....	.50
	S. 9	95-372	92:629	Outer Continental Shelf Lands Act Amendments of 1978.....	2.00
	H.R. 13468	95-373	92:699	District of Columbia Appropriation Act, 1979.....	.60
	H.R. 12927	95-374	92:707	Military Construction Appropriation Act, 1979.....	.60
Sept. 19	S. 1633	95-375	92:712	To provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.....	.60
	H.R. 10878	95-376	92:714	To extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.....	.70
	S. 3454	95-377	92:719	To amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.....	.50
Sept. 22	H.R. 8112	95-378	92:723	To repeal chapter 27 of title 44, United States Code.....	.50
	H.R. 12915	95-379	92:724	To amend section 2301 of title 44, relating to the National Archives Trust Fund Board.....	.50
	H.R. 13087	95-380	92:725	To authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.....	.50
	S. 2928	95-381	92:726	To authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes.....	.50
	H.R. 9471	95-382	92:727	To amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.....	.50

## Public Laws

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Sept. 22	S. 3107	95-383	92:729	To amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.....	.50
Sept. 26	S. 3075	95-384	92:730	International Security Assistance Act of 1978. ....	.90
	S. 3119	95-385	92:749	To transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency.....	.50
	S. 3120	95-386	92:750	To enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.....	.50
Sept. 27	S. 1103	95-387	92:751	District of Columbia Reciprocal Tax Collection Act. ....	.50
	S. 2556	95-388	92:753	To change the name of the District of Columbia Ball Agency to the District of Columbia Pretrial Services Agency.....	.50
Sept. 29	S.J.Res. 133	95-389	92:754	To authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day".....	.60
	H.R. 7814	95-390	92:755	Federal Employees Flexible and Compressed Work Schedules Act of 1978. ....	.60
Sept. 30	H.R. 12935	95-391	92:763	Legislative Branch Appropriation Act, 1979. ....	1.10
	H.R. 12936	95-392	92:791	Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1979.....	1.00
	H.R. 7819	95-393	92:808	Diplomatic Relations Act. ....	.50
	H.R. 12772	95-394	92:811	To facilitate the exchange of certain lands in the State of Oregon, and for other purposes.....	.50
	H.R. 12860	95-395	92:813	Rhode Island Indian Claims Settlement Act. ....	.60
	S. 1678	95-396	92:819	Federal Pesticide Act of 1978.....	1.10
	H.R. 3702	95-397	92:843	Uniformed Services Survivors' Benefits Amendments of 1978.....	.70
	S. 3069	95-398	92:850	To provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members..	.50
	S. 3002	95-399	92:851	To modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes. ....	.70
	S. 3271	95-400	92:856	To amend the pilot project workfare provisions of the Food Stamp Act of 1977. ....	.60
	H.R. 11401	95-401	92:857	National Aeronautics and Space Administration Authorization Act, 1979.....	.70
	S. 3468	95-402	92:862	To amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities. ....	.50
	S. 1896	95-403	92:863	To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979. ....	.60
S. 2701	95-404	92:864	To amend the Water Resources Planning Act (79 Stat. 244, as amended). ....	.50	
S. 2391	95-405	92:865	Futures Trading Act of 1978.....	.90	

## Public Laws

56773

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Sept. 30	S.J.Res. 165	95-406	92:879	To provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes. ....	.60
	H.J.Res. 1140	95-407	92:882	To amend section 8 of the Export-Import Bank Act of 1945.....	.60
Oct. 2	S. 3375	95-408	92:883	Federal District Court Organization Act of 1978.....	.60
	S. 3272	95-409	92:886	To amend the Packers and Stockyards Act, 1921, and for other purposes. ....	.60
Oct. 3	H.R. 8149	95-410	92:888	Customs Procedural Reform and Simplification Act of 1978. ....	1.00
Oct. 5	S.J.Res. 154	95-411	92:906	Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979.....	.60
	H.R. 12443	95-412	92:907	To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy.....	.60
	S. 3342	95-413	92:910	To name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake".....	.60
	S. 2507	95-414	92:911	To authorize the Smithsonian Institution to acquire the Museum of African Act, and for other purposes.....	.60
	H.J.Res. 1088	95-415	92:914	Providing financial assistance for the city of New York. ....	.60
	S. 1265	95-416	92:915	To amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services.....	.60
	H.R. 12508	95-417	92:917	To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children. ....	.60
	H.R. 8812	95-418	92:919	To name a certain Federal building in Jonesboro, Arkansas, the "E.C. 'Took' Gathings Building".....	.60
	H.J.Res. 1007	95-419	92:920	Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week".....	.60
	H.R. 13745	95-420	92:921	Sikes Act Amendments of 1978. ....	.60
	S. 3040	95-421	92:923	Amtrak Improvement Act of 1978. ....	.80
	H.R. 11291	95-422	92:923	To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration.....	.60

## Public Laws

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 6	H.R. 1920	95-423	92:935	To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale. ....	.60
	H.R. 12222	95-424	92:937	International Development and Food Assistance Act of 1978. ....	1.20
	H.R. 11567	95-425	92:962	To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes. ....	.60
Oct. 7	H.R. 12598	95-426	92:963	Foreign Relations Authorization Act, Fiscal Year 1979. ....	1.40
	H.R. 12841	95-427	92:996	To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes. ....	.60
	H.R. 10822	95-428	92:999	To improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes. ....	.60
Oct. 10	H.R. 12930	95-429	92:1001	Treaasury, Postal Service, and General Government Appropriations Act, 1979. ....	1.00
	H.R. 11005	95-430	92:1020	To provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979. ....	.60
	H.R. 12934	95-431	92:1021	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979. ....	1.20
	H.R. 13349	95-432	92:1046	To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes. ....	.60
	H.R. 10581	95-433	92:1047	Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes. ....	.60
	H.R. 11400	95-434	92:1049	National Science Foundation Authorization Act for Fiscal Year 1979. ....	.60
	H.R. 9214	95-435	92:1051	To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund. ....	.60
	S. 409	95-436	92:1054	To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center." ....	.60
	H.R. 10126	95-437	92:1055	Federal Employees Part-Time Career Employment Act of 1978. ....	.70
	S. 425	95-438	92:1060	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired). ....	.60
	S. 286	95-439	92:1061	To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes. ....	.60

## Public Laws

56775

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Oct. 10	S. 1267	95-440	92:1063	To amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents. ....	.60
	S. 2946	95-441	92:1064	To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interest under his control. ....	.60
	S. 2951	95-442	92:1065	To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs. ....	.60
	S. 3045	95-443	92:1066	To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products. ....	.60
	S. 3067	95-444	92:1067	Civil Rights Commission Act of 1978. ....	.60
	S. 3092	95-445	92:1069	Humane Methods of Slaughter Act of 1978. ....	.60
	S. 3274	95-446	92:1071	To designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center". ....	.60
	S. 3036	95-447	92:1072	To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes. ....	.60
Oct. 11	H.R. 13125	95-448	92:1073	Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes. ....	1.10
	S.J.Res. 29	95-449	92:1094	To authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week". ....	.60
	H.R. 12026	95-450	92:1095	Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act. ....	.70
	S. 3467	95-451	92:1100	To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W.R. 'Bob' Poage Pecan Field Station". ....	.60
Oct. 12	H.R. 8588	95-452	92:1101	Inspector General Act of 1978. ....	.80
	H.R. 9945	95-453	92:1110	To amend the Act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office. ....	.60
Oct. 13	S. 2640	95-454	92:1111	Civil Service Reform Act of 1978. ....	2.40
	H.R. 12603	95-455	92:1228	To amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes. ....	.60
	S. 2249	95-456	92:1230	To prohibit discrimination in rates charged by the Southwestern Power Administration. ....	.60
	H.R. 13635	95-457	92:1231	Department of Defense Appropriation Act, 1979. ....	1.10

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Oct. 14	H.R. 1337	95-458	92:1255	To amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions. ....	.70
	H.R. 13991	95-459	92:1262	To provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land. ....	.60
	S. 3384	95-460	92:1263	Agricultural Foreign Investment Disclosure Act of 1978. ....	.70
	S. 2916	95-461	92:1268	Drug Abuse Prevention and Treatment Amendments of 1978. ....	.60
	H.R. 13692	95-462	92:1271	Granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia. ....	.70
	H.J. Res. 685	95-463	92:1276	To designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim, February 11, 1979, as "National Inventors' Day". ....	.60
Oct. 17	S. 415	95-464	92:1278	To amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn. ....	.60
	H.R. 12932	95-465	92:1279	Making appropriation for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes. ....	1.20
	S.J. Res. 16	95-466	92:1304	To restore posthumously full rights of citizenship to Jefferson F. Davis. ....	.60
	S. 2704	95-467	92:1305	Water Research and Development Act of 1978. ....	.90
	S. 2801	95-468	92:1318	To designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building". ....	.60
	H.R. 8394	95-469	92:1319	To provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes. ....	.60
	S. 2376	95-470	92:1323	To authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations. ....	.60
	S. 1215	95-471	92:1325	Tribally Controlled Community College Assistance Act of 1978. ....	.70
	H.R. 8811	95-472	92:1332	To amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court. ....	.70
	H.R. 10965	95-473	92:1337	To revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation". ....	2.50
	S. 682	95-474	92:1471	Port and Tanker Safety Act of 1978. ....	1.10

## Public Laws

56777

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Oct. 18	H.R. 6503	95-475	92:1494	To amend the Intercoastal Shipping Act, 1933, and for other purposes.....	.60
	H.R. 12028	95-476	92:1497	Veterans' Housing Benefits Act of 1978.....	.80
	H.R. 11302	95-477	92:1507	Environmental Research, Development, and Demonstration Authorization Act of 1979.....	.70
	H.R. 12255	95-478	92:1513	Comprehensive Older Americans Act Amendments of 1978.....	1.70
	H.R. 11886	95-479	92:1560	Veterans' Disability Compensation and Survivors' Benefits Act of 1978.....	.70
	H.R. 12929	95-480	92:1567	Making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.....	1.10
	H.R. 12931	95-481	92:1591	Making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.....	.80
	H.J. Res. 1139	95-482	92:1603	Making continuing appropriations for fiscal year 1979, and for other purposes.....	.60
	H.R. 9998	95-483	92:1607	Ocean Shipping Act of 1978.....	.60
Oct. 19	H.R. 13797	95-484	92:1610	To authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes.....	.60
Oct. 20	S. 3486	95-485	92:1611	Department of Defense Appropriation Authorization Act, 1979.....	1.00
	H.R. 7843	95-486	92:1629	To provide for the appointment of additional district and circuit judges, and for other purposes.....	.70
	H.R. 14026	95-487	92:1635	To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the Village of Kake, Alaska, and for other purposes.....	.60
	H.R. 13167	95-488	92:1637	To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes.....	.60
	H.R. 13803	95-489	92:1639	To terminate the authorization of the navigation project on the Columbia Slough, Oregon.....	.60
	S. 1318	95-490	92:1640	To permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose.....	.60
	S. 3259	95-491	92:1641	Federal Information Centers Act.....	.60
	S. 3373	95-492	92:1642	To amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes.....	.60
	H.R. 11035	95-493	92:1643	To incorporate the United States Capitol Historical Society.....	.70
Oct. 21	H.R. 12264	95-494	92:1648	To designate certain lands in the State of Wisconsin as Wilderness.....	.60

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Oct. 21	H.R. 12250	95-495	92:1649	To designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes.....	.80
	S. 1081	95-496	92:1660	To amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.....	.70
	H.R. 12051	95-497	92:1665	Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions.....	.70
	S. 2588	95-498	92:1672	To declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands.....	.70
	S. 2358	95-499	92:1679	To declare that the United States holds in trust for the Pueblo of Zia certain public domain lands.....	.60
	H.R. 8755	95-500	92:1683	To make specific provisions for the ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes.....	.60
	S. 3447	95-501	92:1685	Agricultural Trade Act of 1978.....	.70
	H.R. 8533	95-502	92:1693	To amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-organizations will not be subject to tax.....	.80
Oct. 24	S. 2411	95-503	92:1704	To amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district.....	.60
	S. 2493	95-504	92:1705	Airline Deregulation Act of 1978.....	1.80
	H.R. 11658	95-505	92:1755	To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel.....	.60
	H.R. 13767	95-506	92:1756	To amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies.....	.60
	H.R. 11318	95-507	92:1757	To amend the Small Business Act and the Small Business Investment Act of 1958.....	1.00
	H.R. 12165	95-508	92:1774	To extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes.....	.60
	H.R. 11686	95-509	92:1775	Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979.....	.70
	H.R. 13418	95-510	92:1780	To amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes.....	.60

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Oct. 25	S. 1566	95-511	92:1783	Foreign Intelligence Surveillance Act of 1978.....	.90
	S. 3412	95-512	92:1799	Comptroller General Annuity Adjustment Act of 1978.....	.60
	H.J. Res. 1147	95-513	92:1802	Authorizing and requesting the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week".....	.60
	H.R. 10587	95-514	92:1803	Public Rangelands Improvement Act of 1978.....	.70
	S. 1185	95-515	92:1811	Interstate Horseracing Act of 1978.....	.70
	H.R. 10161	95-516	92:1816	For the relief of Eastern Telephone Supply and Manufacturing, Incorporated, and other matters.	.60
	H.R. 11945	95-517	92:1817	To authorize the Secretary of the Army to return to the Federal Republic of Germany ten paintings of the German Navy seized by the United States Army at the end of World War II...	.60
	H.R. 12112	95-518	92:1818	Designating Gathright Lake on the Jackson River, Virginia, as Gathright Dam and Lake Moomaw....	.60
	S. 1626	95-519	92:1819	To clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes. ....	.60
Oct. 26	H.R. 5029	95-520	92:1820	Veterans' Administration Programs Extension Act of 1978.....	.60
	S. 555	95-521	92:1824	Ethics in Government Act of 1978.....	2.00
Oct. 27	H.R. 13481	95-522	92:1886	To name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building".....	.60
	H.R. 50	95-523	92:1887	Full Employment and Balanced Growth Act of 1978.....	1.10
	S. 2570	95-524	92:1909	Comprehensive Employment and Training Act Amendments of 1978.....	2.40
	H.R. 7296	95-525	92:2022	To designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building".....	.60
	H.R. 12116	95-526	92:2023	To amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which act of the Council of the District of Columbia are subject to congressional review, and for other purposes. ....	.60
	H.R. 7305	95-527	92:2025	To designate a certain Federal building in Champaign, Illinois, the "William L. Springer Building".....	.60
	H.R. 13808	95-528	92:2026	To designate the "Omar Burleson Federal Building".....	.60
	H.R. 13809	95-529	92:2027	To designate the "George Mahon Federal Building".....	.60

## Public Laws

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Oct. 27	H.R. 13892	95-530	92:2028	To amend title 28 of the United States Code to provide that the requirement that each United States attorney and United States marshal reside in the district for which he is appointed shall not apply to individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district.....	.60
	H.R. 14223	95-531	92:2029	To designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building".....	.60
	H.R. 14295	95-532	92:2030	To designate the "Paul G. Rogers Federal Building".....	.60
	H.J. Res. 747	95-533	92:2031	To consent to an amendment of the Constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State.....	.60
	H.J. Res. 816	95-534	92:2032	To extend the authority of the Federal Reserve banks to buy and sell certain obligations.....	.60
	S. 2049	95-535	92:2033	To establish fees and allow per diem and mileage expenses for witnesses before United States courts.....	.60
	S. 2403	95-536	92:2035	To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21.....	.60
	S. 3336	95-537	92:2038	Contract Services for Drug Dependent Federal Offenders Act of 1978.....	.60
	S. 3540	95-538	92:2039	To rename the United States Federal building in Yakima, Washington, the "Justice William O. Douglas Federal Building".....	.60
Oct. 28	S. 1315	95-539	92:2040	Court Interpreters Act.....	.70
	H.R. 4727	95-540	92:2046	To amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims.....	.60
	H.R. 7749	95-541	92:2048	Anarctic Conservation Act of 1978.....	.80
	H.R. 11671	95-542	92:2058	To designate a certain Federal building in Big Stone Gap, Virginia, the "C. Bascom Slep Building".....	.60
	H.R. 12634	95-543	92:2059	To designate a building in Pittsburg, Kansas, as the "Joe Skubitz Social Security Administration Center".....	.60
	H.R. 13187	95-544	92:2060	To designate the United States Post Office and Federal Building in Griffin, Georgia, the "John J. Flynt, Jr. Federal Building".....	.60
	H.R. 13514	95-545	92:2061	To name a certain Federal building in Shreveport, Louisiana, the "Joe Waggoner Federal Building".....	.60
	H.R. 13972	95-546	92:2062	To designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana.....	.60
	H.R. 13989	95-547	92:2063	To amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.....	.60

## Public Laws

56781

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Oct. 30	S. 3112	95-548	92:2064	To amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.....	.60
	H.R. 12509	95-549	92:2065	To amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes.....	.60
	S. 1403	95-550	92:2067	To provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico. ....	.60
	H.R. 13416	95-551	92:2069	To amend title 10, United States Code, to modernize the permanent faculty structure at the United States Military Academy, and for other purposes.....	.60
	H.R. 13372	95-552	92:2071	To increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes. ....	.60
	S. 3551	95-553	92:2072	To make technical corrections in the North Pacific Fisheries Act of 1954.....	.60
	S. 3189	95-554	92:2073	To further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes. ....	.60
Oct. 31	S. 995	95-555	92:2076	To amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.....	.60
	H.R. 13702	95-556	92:2078	To provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes.....	.60
	S. 3084	95-557	92:2080	Housing and Community Development Amendments of 1978.....	1.80
Nov. 1	S. 3595	95-558	92:2130	To amend section 202(d) of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures. ....	.60
	S. 2534	95-559	92:2131	Health Maintenance Organization Amendments of 1978. ....	.80
	H.R. 8389	95-560	92:2142	Authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy.....	.60
	H.R. 15	95-561	92:2143	Education Amendments of 1978.....	3.25
	S. 976	95-562	92:2381	To amend the Perishable Agricultural Commodities Act.....	.60
	H.R. 11002	95-563	92:2383	Contract Disputes Act of 1978.....	.80
	H.R. 11209	95-564	92:2392	To provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services.....	.70
	S. 2788	95-565	92:2397	United States Railway Association Amendments Act of 1978. ....	.70
	S. 2539	95-566	92:2402	Middle Income Student Assistance Act. ....	.60

## Public Laws

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Nov. 2	H.R. 12605	95-567	92:2405	Public Telecommunications Financing Act of 1978..	1.00
	H.R. 7577	95-568	92:2425	Economic Opportunity Amendments of 1978.....	.90
	S. 1029	95-569	92:2444	To authorize the Smithsonian Institution to construct support museum facilities.....	.60
	H.R. 11003	95-570	92:2445	To clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.....	.70
	H.R. 14224	95-571	92:2452	To authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.....	.60
	S. 2075	95-572	92:2453	Jury System Improvements Act of 1978.....	.70
	H.R. 14145	95-573	92:2458	To amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York.....	.70
	S. 3081	95-574	92:2459	Federal Railroad Safety Authorization Act of 1978.	.60
	S. 1487	95-575	92:2463	To amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes.	.60
	H.R. 12140	95-576	92:2467	To amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the Act.....	.60
	H.R. 13597	95-577	92:2470	To authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes.....	.60
	S. 2820	95-578	92:2471	Reclamation Safety of Dams Act of 1978.....	.60
	S. 2247	95-579	92:2474	Amending section 312 of the Immigration and Nationality Act.....	.60
	S. 1835	95-580	92:2475	To establish a Rural Transportation Advisory Task Force, and for other purposes.....	.60
	H.R. 10343	95-581	92:2478	To provide for recalculation of the retired pay of individuals who served as sergeant of the Marine Corps before December 16, 1967.....	.60
	H.R. 12393	95-582	92:2479	To provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes.....	.60
	H.R. 4319	95-583	92:2481	To amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances may be eligible to retain their life and health insurance benefits, and for other purposes.....	.60
	S. 3371	95-584	92:2483	To repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States.....	.60
	H.R. 3185	95-585	92:2484	To amend the Act commonly known as the Miller Act to raise the dollar amount of contracts to which such Act applies from \$2,000 to \$25,000.....	.60

## Public Laws

56783

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Nov. 3	H.R. 7971	95-586	92:2485	To validate certain land conveyances, and other purposes.....	.80
	H.R. 7101	95-587	92:2496	To amend certain provisions of law relating to land claims by the United States in Riverside County, California, based upon the accretion or avulsion, and other purposes.....	.60
Nov. 4	H.R. 10173	95-588	92:2497	Veterans' and Survivors' Pension Improvement Act of 1978.....	.90
	H.R. 13903	95-589	92:2512	To amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed. ...	.60
	H.R. 12874	95-590	92:2513	Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978. ....	.80
	H.R. 13500	95-591	92:2523	Presidential Records Act of 1978 .....	.70
	S. 1816	95-592	92:2529	Native Latex Commercialization and Economic Development Act of 1978 .....	.70
	S. 703	95-593	92:2535	To improve the administration and operation of the Overseas Citizen Voting Rights Act of 1975, and for other purposes .....	.70
	H.J. Res. 1173	95-594	92:2540	Relative to convening of the first session of the Ninety-sixth Congress, and for other purposes. ....	.60
	H.R. 9701	95-595	92:2541	To amend to Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes.....	.60
	S.J. Res. 160	95-596	92:2544	To initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes.....	.60
	H.R. 5646	95-597	92:2547	To amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization. ....	.60
Nov. 6	H.R. 8200	95-598	92:2549	To establish a uniform Law on the Subject of Bankruptcies. ....	2.50
	H.R. 11733	95-599	92:2689	Surface Transportation Assistance Act of 1978. ....	2.10
	H.R. 13511	95-600	92:2763	Revenue Act of 1978. ....	2.75
	S. 2584	95-601	92:2947	To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes. ....	.70
	H.R. 12467	95-602	92:2955	Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978..	1.80

## Public Laws

<i>Approval Date</i>	<i>Bill No.</i>	<i>Public Law No.</i>	<i>U.S. Statutes at Large</i>	<i>Subject Matter</i>	<i>Price</i>
Nov. 6	S.990	95-603	92:3018	Federal Physicians Comparability Allowance Act of 1978.....	.60
	H.R. 13650	95-604	92:3021	Uranium Mill Tailings Radiation Control Act of 1978. ....	1.10
	S.2774	95-605	92:3044	To extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes.....	.60
	S. 2727	95-606	92:3045	Amateur Sports Act of 1978.....	.90
	S. 2981	95-607	92:3059	To amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes. ....	.80
	S. 1214	95-608	92:3069	Indian Child Welfare Act of 1978. ....	.80
	S. 3083	95-609	92:3079	Quiet Communities Act of 1978.....	.70
	S. 274	95-610	92:3085	To amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organization by the Government, and for other purposes. ....	.60
	H.R. 10898	95-611	92:3089	To amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979.....	.60
	S. 2093	95-612	92:3091	To provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes. .	.60
	S. 2522	95-613	92:3093	To extend the programs of assistance under title X and part B of title XI of the Public Health Service Act. ....	.60
	S. 553	95-614	92:3095	To amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes. ....	.60
	H.R. 9251	95-615	92:3097	Tax Treatment Extension Act of 1977.....	.90
	H.R. 2329	95-616	92:3110	Fish and Wildlife Improvement Act of 1978.....	.70
Nov. 9	H.R. 4018	95-617	92:3117	Public Utility Regulatory Policies Act of 1978.....	1.90
	H.R. 5263	95-618	92:3174	Energy Tax Act of 1978. ....	1.40
	H.R. 5037	95-619	92:3206	National Energy Conservation Policy Act.....	2.10
	H.R. 5146	95-620	92:3289	Powerplant and Industrial Fuel Use Act of 1978. ....	1.90
	H.R. 5289	95-621	92:3350	Natural Gas Policy Act of 1978. ....	1.90
	S. 2450	95-622	92:3412	To amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes.....	1.30
	S. 2466	95-623	92:3443	Health Services Research, Health Statistics, and Health Care Technology Act of 1978.....	.90
	S. 3151	95-624	92:3459	Department of Justice Appropriation Authorization Act, Fiscal Year 1979. ....	.70
Nov. 10	S. 791	95-625	92:3467	National Parks and Recreation Act of 1978.....	2.10
	S. 2474	95-626	92:3551	Health Services and Centers Amendments of 1978..	1.80
	S. 3085	95-627	92:3603	Child Nutrition Amendments of 1978. ....	1.10

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Nov. 10	H.R. 7320	95-628	92:3627	To revise miscellaneous timing requirements of the revenue laws, and for other purposes. ....	.70
	S. 1829	95-629	92:3635	To amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes .	.70
	H.R. 14279	95-630	92:3641	Financial Institutions Regulatory and Interest Rate Control Act of 1978.....	2.30
	S. 2796	95-631	92:3742	To amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes. ....	.80
	S. 2899	95-632	92:3751	Endangered Species Act Amendments of 1978. ....	1.00
	S. 2399	95-633	92:3768	Psychotropic Substances Act of 1978. ....	.80

## MAIL ORDER FORM To:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find \$..... (check or money order) or charge to my Deposit Account No. ....

Please send me ..... copies of the following slip laws:

## FOR USE OF SUPT. DOCS.

-----Enclosed-----  
 -----To be mailed-----  
 -----later-----  
 -----Subscription-----  
 -----Refund-----  
 -----Postage-----  
 -----Foreign Handling-----

PLEASE FILL IN MAILING LABEL  
BELOW

Name .....

Street address .....

City and State ..... ZIP Code .....

THERE IS A \$1.00 MINIMUM FOR MAIL ORDERS

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS  
U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID  
U.S. GOVERNMENT PRINTING OFFICE  
375  
SPECIAL FOURTH-CLASS RATE  
BOOK

Name .....

Street address .....

City and State ..... ZIP Code .....

## COMMENTS REQUESTED

The Office of the Federal Register is considering publishing in the Federal Register periodic cumulative listings of public laws. These listings would be in addition to the "Reminder" entries which announce laws as they are signed. These listings would follow the same format as shown above and would be cumulative each time they are published. The last listing would be cumulative for an entire session of a particular Congress.

We would appreciate comments from the users of the Federal Register on the usefulness, frequency, and desirability of printing these listings and on the arrangement of and information in the listings.

Please send your comments to Fred J. Emery, Director, Office of the Federal Register, Washington, D.C. 20408.



**Register  
Federal**

**MONDAY, DECEMBER 4, 1978  
PART III**



---

**DEPARTMENT OF  
TRANSPORTATION**

**Coast Guard**



**REQUIREMENTS FOR  
MOBILE OFFSHORE  
DRILLING UNITS**

[4910-14-M]

## Title 46—Shipping

CHAPTER I—COAST GUARD,  
DEPARTMENT OF TRANSPORTATION

[CGD 73-251]

REQUIREMENTS FOR MOBILE  
OFFSHORE DRILLING UNITS

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** These regulations govern the inspection and certification, design and equipment, and operation of mobile offshore drilling units. Mobile offshore drilling units have previously been subject to various regulations depending on whether they float while engaged in drilling operations, or whether they drill while bearing on the seabed. These regulations will bring all mobile offshore drilling units under one set of uniform, comprehensive regulations, and will provide that all units be inspected and certificated by the Coast Guard.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Lieutenant Commander Edward A. Harmes, Office of Merchant Marine Safety, Room 8300, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-2183.

**SUPPLEMENTARY INFORMATION:** On May 2, 1977, the Coast Guard published a proposed rule (42 FR 22296) concerning these amendments. Interested persons were given until June 29, 1977, to submit comments, and a public hearing was held on June 1, 1977, in New Orleans, Louisiana. A total of 79 written comments were received from 58 commenters. A significant amount of duplication was noted. Commenters included private individuals; companies; industry associations; Federal, State, and local government agencies; and labor unions. Eight persons made oral comments at the public hearing.

The regulations governing electrical engineering requirements for mobile offshore drilling units were proposed in the FEDERAL REGISTER of June 27, 1977 (42 FR 32700). Interested persons were given until August 11, 1977, to comment on these proposals. Eight comments were received which related specifically to the requirements for mobile offshore drilling units.

This rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation has been prepared,

and has been included in the public docket.

## DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Commander Peter Cronk and Lieutenant Commander Edward Harmes, Project Managers, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

The letter designations of the Subparts in Part 108 have been changed in order to make them consecutive. Both the new and old designations are set out below:

Proposal	Final Rule
Subpart A	Subpart A
Subpart C	Subpart B
Subpart D	Subpart C
Subpart E	Subpart D
Subpart F	Subpart E
Subpart G	Subpart F
Subpart J	Subpart G
Subpart K	Subpart H

## DISCUSSION OF COMMENTS

Many revisions have been made to the proposed regulations to improve clarity without changing the substance of the regulations. These revisions are made as a result of comments received, and Coast Guard review of the proposal.

Those changes that significantly alter the proposed regulations, and those items that received considerable comment, but have not been revised, are discussed below.

Concurrent with the development of these National regulations has been an international effort to draft a Code for Mobile Offshore Drilling Units through the International Maritime Consultative Organization (IMCO). The draft Code is near completion and is expected to be submitted for adoption procedures through the Maritime Safety Committee by the end of 1978. Where it has been possible, the National regulations have been developed to reflect the proposed resolution. However, because of the fluid state of the IMCO effort and the need for National regulations prior to adoption of the IMCO standard, some differences between these two are anticipated.

## GENERAL COMMENTS

The Environmental Protection Agency expressed concern that the establishment of Subchapter I-A would remove all mobile offshore drilling units from the provisions of 33 CFR Part 147, which provides for the establishment of safety zones around offshore installations. The Coast Guard does not intend to modify the applicability of the safety zone regulations.

Numerous commenters objected to the inclusion in Subchapter I-A of references to other regulations applicable

to mobile offshore drilling units, and suggested that all of these regulations be set out in the final rule. The Coast Guard Mobile Offshore Drilling Unit Subcommittee of the National Offshore Operations Industry Advisory Committee considered the inclusion of all applicable regulations in one set of regulations during the early stages of the development of these regulations and rejected the concept as impractical.

Several commenters expressed concern that, regardless of the Memorandum of Understanding (MOU) signed by the Coast Guard and the U.S. Geological Survey (USGS) on 11 April 1977, (42 FR 20198, April 18, 1977), the proposed rulemaking presented apparent areas of regulatory conflict between the Coast Guard and the USGS for those units operating on the Outer Continental Shelf of the United States. Particular concern was directed at those portions of the proposed rule addressing industrial systems; cranes; and riveting, welding, and burning operations. The Coast Guard does not agree that this is a problem. The USCG-USGS Memorandum of Understanding was developed with full consideration given to the proposed rulemaking. In accordance with the provisions of the MOU, a standing committee composed of representatives of each agency has been established to coordinate its implementation. The USGS has also, in their recent revisions to the OCS Orders, referred to the Memorandum of Understanding and applicable Coast Guard regulations.

Although the preamble to the proposed rule indicated that the proposal did not address personnel qualifications or manning standards for mobile offshore drilling units, several commenters made suggestions and recommendations in this area.

The Coast Guard has contracted the services of an independent research firm to conduct a survey, and an analysis of industrial/maritime mobile offshore drilling unit personnel training and qualification requirements. The task, which is anticipated to be completed shortly, will assist the Coast Guard in developing regulations to assure that drilling unit personnel have the skill and knowledge necessary for safe navigation, and operation of the units when they are in the marine mode.

## SUBCHAPTER I-A

PART 107—INSPECTION AND  
CERTIFICATION

One commenter suggested that the word "drilling" be deleted from § 107.01 in order to make the regulations applicable to other types of units engaged in the offshore oil industry. At this time, it is the Coast Guard's

intent to only make the regulations applicable to mobile offshore drilling units. Those portions of the regulations which may be applicable to other vessels of similar configuration will be evaluated for possible future rulemaking action.

Another commentator recommended that the definition of Industrial Personnel in § 107.113 be revised to limit the industrial personnel category to those persons directly engaged in the drilling process. The Coast Guard feels that the definition, as proposed, is accurate, as it states that industrial personnel are those on board for the sole purpose of carrying out the industrial business or function of the unit, which is drilling. The unit's Certificate of Inspection will set forth the required crew and the total number of persons allowed on board the unit.

Seven commentators, apparently relying on the language in 46 CFR 30.10-11, requested that a new paragraph be added to § 107.115 stating that non-self-propelled units normally operating in the waters of any ocean or the Gulf of Mexico 20 nautical miles or less offshore are not seagoing barges. After careful consideration, the Coast Guard has determined that it cannot adopt this comment since it would be inconsistent with previous administrative determinations as to the application of the Seagoing Barge Act, 46 U.S.C. 395. 46 CFR 30.10-11 relates only to tank barges and is not applicable to mobile offshore drilling units. However, the same language appears in 46 CFR 90.10-25. The regulation in 46 CFR 90.10-36 contains the Coast Guard's interpretation of the application of the Seagoing Barge Act. It states that the phrase "every seagoing barge of one hundred gross tons or over in subsections 395(a) and 395(b), Title 46, U.S.C. (sec. 10, 35 Stat. 428, as amended) includes every non-self-propelled vessel of 100 gross tons or over, if such vessel will navigate the high seas or ocean." The terms "high seas or ocean", in 46 CFR 90.10-36 means any area of the ocean seaward of the headlands. Although 46 CFR 90.10-25 is entitled "ocean," it does not define that term. It is merely a statement of what is included in a route designation on a Certificate of Inspection.

In *United States v. Gahagan Dredge Corp.* (289 F. 2d 639 (2d Cir. 1961)), the Court adopted the interpretation of the Seagoing Barge Act placed on that Act by the Coast Guard. The interpretation was that the Act applied to barges which navigate seaward of the headlands. This interpretation continues to be the interpretation of the Coast Guard as to the application of the inspection and certification requirements in the Act.

Eleven commentators requested that a paragraph be added to § 107.115 to

read that "non-self-propelled units which in fact in the usual course of their operations do not pass outside the line of demarcation dividing inland waters from the high seas, as defined in Section 151 of Title 33, U.S. Code, are not considered 'seagoing barges' for the purpose of this chapter." The line authorized by 33 U.S.C. 151 relating to the application of certain marine safety statutes has no application to the Seagoing Barge Act.

Since a determination and classification of a vessel as to whether or not it is a seagoing barge is within the administrative discretion of the Coast Guard, these barges will be subject to inspection when, in the judgment of the cognizant Officer-in-Charge, Marine Inspection, their operations carry them into waters which are essentially outside of the sheltered waters, and exposed to the effect of the open seas.

Section 107.115 has been deleted because the definition of "Mobile Offshore Drilling Unit" in § 107.111 adequately covers seagoing barges.

Eighteen commentators recommended that the requirement for a biennial inspection in § 107.201, and several other sections of Part 107, be changed to a quadrennial inspection. The Coast Guard's position is that a biennial inspection is required by law, and that these sections cannot be modified. Specifically, 46 U.S.C. 399, states in part "when the inspection of a steam vessel is completed and the Secretary of the department in which the Coast Guard is operating approves the vessel and her equipment throughout he shall make and subscribe a certificate to that effect." The provisions of 46 U.S.C. 391 and 395 require that these inspections be conducted at least once in every two years.

Seventeen commentators thought that the wording of § 107.211(c) did not accurately describe the requirements that would apply to existing uncertificated mobile offshore drilling units for an original Certificate of Inspection. Several versions of alternative wording were suggested.

The Coast Guard agrees that the wording in the proposed rule was not clear, and has modified § 107.211(c) to clarify that existing uncertificated mobile offshore drilling units are subject only to the applicable portions of Subchapter I-A Specified in the Navigation and Vessel Inspection Circular, "Inspection of Existing Mobile Offshore Drilling Units." The Circular is published as Appendix A to Subchapter I-A.

One commentator submitted that the 90 day notification for biennial inspections and drydock examinations for units operating in international service was excessive, and proposed a 30 day notification. On the basis of

recent experience in overseas inspections, the Coast Guard agrees that the 90 day notification is not necessary, but feels that 30 days does not allow for enough lead time. Section 107.215(b) has been revised to provide for a 60 day notification.

Fifteen commentators suggested alternative wording for § 107.215(c)(2) addressing biennial inspection for certification of those units previously issued a Certificate of Inspection under 46 CFR Subchapter I. The main thrust of these comments were similar to those addressed to § 107.211(c) and suggested deletion of the reference to the Navigation and Vessel Inspection Circular, "Inspection of Existing Mobile Offshore Drilling Units." The Coast Guard feels that reference to the Circular is necessary because it contains guidance for the application of certain equipment and operating requirements of Subchapter I-A to units that are certificated under Subchapter I. This section has been re-written to clarify its intent.

Nineteen commentators suggested adding a footnote to § 107.231(a)(4) to state that the load line requirements are not applicable to bottom supported units when they are in an operating mode. The Coast Guard agrees, and an appropriate footnote has been added.

Several commentators suggested numerous changes, both editorial and technical, to § 107.235. These comments were accepted, in part, and § 107.235 has been completely rewritten to make it easier to understand. The servicing requirements for hand portable fire extinguishers has been put in a tabular format, and testing requirements for foam systems clarified by the inclusion of a provision that the manufacturer may evaluate the sample of the foam liquid.

Seven comments pointed out the apparent regulatory conflict with the U.S. Geological Survey (USGS) in regard to cranes. The conflict between the Coast Guard regulations and the USGS Gulf of Mexico OCS Order 8, regarding the applicability of crane operation requirements to mobile offshore drilling units, is resolved in the new proposed USGS National Orders. The National Orders will not include crane requirements for mobile offshore drilling units thereby eliminating the regulatory conflict.

Two comments were received concerning § 107.260(c)(3). Requiring a rated load test after repairs or alterations to structural components remains desirable even though they are made under the direct supervision of the manufacturer according to his repair specifications. The addition of the "main hoist" to this requirement would not be appropriate since repairs can be made which do not involve load bearing components of the main hoist

but whose structural integrity should be verified. It is intended that any structural component or mechanism for which a load test is appropriate would require such a test to insure that repairs or alterations are satisfactory.

One comment was concerned with the effect of referring to the API Standards for cranes as opposed to writing specific regulations. The API Standards have the effect of regulation when adopted by reference. Any change to the Standard would have the benefit of Coast Guard review. Any exceptions or modifications to the standards may be made by the Coast Guard by publishing regulations which would preempt the standard.

A suggested revision to § 107.259(b) was accepted. The revised language states that inspectors *conduct* inspections and *witness* tests.

The Coast Guard partially concurred with a recommendation concerning the most appropriate boom angles which should be used for the rated load test in § 107.260(a). This paragraph was revised to include a requirement to conduct the rated load test at the minimum and maximum boom angles usually employed to insure that all structural components were proof tested within the operating range of the crane. Also the Coast Guard did not concur with the recommendation that the crane should be rotated while suspending the proof load. Though there is technical merit to this approach, there are other safety considerations involving physical constraints, danger to the installation and the manner in which proof loads are applied.

Seven comments on § 107.260(c) stated that the rated load test requirements exceed the API RP 2D requirements and are unnecessary. The API Recommended Practice provides for a rated load test after extensive repairs or alterations. The Coast Guard regulations go further by requiring the rated load test after installation, after repairs or alterations (of any kind) to any structural component of the crane (one comment was received in support of this), and after each four years of service. This approach insures that the structural integrity of the crane is verified after the crane is shipped from the factory to the construction site of the vessel and installed. Also, the periodic rated load test helps to determine if there has been any excessive wear and tear on load bearing components brought about by use.

Twelve commentors stated that, in view of present day technology and improved materials, the 24 month dry-docking interval specified in § 107.261(a) should be changed to 48 months. A complete examination of

the hull structure is required, by law, every two years.

One commentor suggested modifications to §§ 107.261 and 107.265 to provide for a special examination in lieu of drydocking for surface type units when specifically authorized by the Commandant. While the Coast Guard continues to be of the opinion that a conventional drydock examination provides for a more comprehensive inspection for surface type units, it is agreed that under certain conditions a special examination in lieu of drydocking is a viable alternative. Sections 107.261 and 107.265 have therefore been modified to allow surface type units to be specially examined in lieu of drydocking when specifically authorized by the Commandant.

Eleven commentors recommended that the descriptive term "submersible" be added to § 107.265. The Coast Guard does not consider it necessary, for the purpose of this rulemaking, to differentiate between units of the submersible and semi-submersible configurations. Of the small number of seagoing submersible units in operation, the great majority fit the defined category of "Column Stabilized."

One commentor suggested that the provisions of § 107.305(hh) could be misinterpreted as having regard only to "high strength" or "notch tough" steels, and not give adequate consideration to cold temperature properties. After considerable review, the regulation has been rewritten to provide for the inclusion of appropriate information concerning steels in the construction portfolio.

Seven comments suggested that § 107.305(o) read "Location of cranes" instead of "arrangement of cranes". The term arrangement encompasses consideration of location. In this context, it provides for additional information relative to the location of each crane and includes the proximity of other features such as the helicopter deck, lifesaving equipment, structural foundations and effects of loads and moments on the unit.

Paragraph 107.309(b)(1) was believed by eleven commentors to be inappropriate as applied to cranes since they considered cranes to be industrial equipment. This is not concurred with since cranes used for handling the general services of the unit, i.e., materials, supplies and personnel transfer, are the unit's equipment. Cranes or material handling gear used exclusively in an industrial system such as the derrick or BOP gantry crane will be inspected as industrial equipment.

Seven commentors believed the submittal of crane plans and information in § 107.309(a)(1) would be a burden to the manufacturer. The concept of plan review is fundamental in approval and certification of cranes. To facili-

tate this process, type approval for manufacturer's models of cranes will apply, in practice, to subsequent orders of the same model, thus substantially reducing the need for repeated plan submittals.

The Coast Guard has revised § 107.309(b) (2) and (3) to clarify the intent of plan review regarding crane hydraulic and pneumatic systems. Cranes with these systems must meet certain requirements in Subpart 58.30 of Title 46 concerning fluid power control systems. Sections 58.30-40 and 58.30-50 describe the plans required to be submitted.

Eleven comments which were rejected affecting §§ 107.258, 107.259, and 107.309 included wording revisions and recommendations to provide for certification of cranes by qualified personnel in addition to Coast Guard inspectors and ABS and International Cargo Gear Bureau (ICGB) certifying authorities. Crane certification was provided to allow inspection by authorities whose certificates are recognized internationally. This would facilitate acceptability of a unit's cranes when it was operating under foreign jurisdictions. For many years, ABS and ICGB have been authorized by the Coast Guard to inspect cargo gear on cargo vessels. It is impracticable for the Coast Guard, at this time, to review, approve, and monitor any other organizations or qualified third parties which may have the capability of certifying cranes according to the requirements of Subchapter I-A.

#### PART 108—DESIGNS AND EQUIPMENT

##### Subpart B—Construction and Arrangement

Several commentors apparently misunderstood § 108.114. With regard to internal openings, the intent of this regulation is to provide remote controls or an alarm system for each opening in a watertight deck or bulkhead which is assumed to remain intact in any damage stability calculations. No standards are proposed for those internal openings which are in decks or bulkheads which are not considered watertight for damage stability purposes.

Many of the same commentors stated that it is unreasonable to demand internal closures to be remotely controlled from a normally manned control station. The regulations do not require this. Section 108.114(c)(1) is written to allow either remote controls or an alarm system. Where an alarm system is fitted, remote controls are not necessary.

One commentor, apparently referring to recent IMCO work addressing tank vessels, advocated additional structural fire protection requirements stressing the danger of external fires

and the possibility of a blowout. The Coast Guard does not agree that additional requirements are necessary in this area. The basic purpose of a mobile offshore drilling unit is the exploration and discovery of petroleum resources. It might be argued that the potential for an uncontrolled hydrocarbon flow "blowout" fire makes a unit different than a cargo vessel, however, it has been the experience of U.S. operators that this type of occurrence is best handled in a "preventive" manner. A blow-out fire and its consequences cannot be handled by state-of-the-art on-board fire protection devices. It should be noted that in the rare occurrence of an uncontrolled well flow and fire, the initial reaction of a crew is to abandon the vessel due to their familiarity with the fact that little can be done to save the unit. Lifesaving requirements therefore appear to play a much more important role than the incremental time possibly afforded by increased fixed fire protection systems.

Eight commentors stated that it was not appropriate to include § 108.131(f), of the proposal under the general heading of *Structural Fire Protection* since the purpose of classification of areas is for the design, selection, and installation of electrical equipment. Seven of these commentors also submitted suggested new wording describing the classified locations. These comments have been accepted in part. This section has been removed from the general heading of *Structural Fire Protection* and relocated at § 108.170. An introductory paragraph has also been added. The final wording of this section has been modified from the proposal to be in conformance with the final wording developed in the IMCO Design and Equipment Subcommittee.

Twenty-five commentors addressed the clarity of § 108.151, and several comments cited examples of situations where compliance with the proposed requirements would be impractical, or would impose other safety hazards. Most of these examples were of ballast pumprooms or propulsion spaces in column stabilized units. It was not the intent of the proposal to require two means of escape from these spaces. This section has been completely rewritten to improve clarity. The requirements for general areas and accommodation spaces were separated from the requirements for other spaces in which personnel are normally employed. Paragraphs (b) and (c) were rewritten to eliminate reference to watertight doors and quick acting doors since doors similar to these types of doors are often provided in locations that do not require a watertight door. The intent of the regulation is to provide a suitable primary

means of escape that allows a rapid means of evacuation if an emergency should occur.

Twelve commentors recommended that § 108.160 be modified to include the actual requirements, and not refer to ANSI Code A14.3. Another commentor suggested that the issue date of the ANSI Code be included for clarification. Section 108.160 was intended to reference ANSI A14.3 for all features of fixed ladders not just width. The Coast Guard currently reviews fixed vertical ladders on inspected vessels to that standard. The text of this section has been revised to include excerpts from ANSI A.14.3(1956), referring to the code only in regard to the requirement for a protective cage or ladder safety device.

Two commentors expressed different opinions in addressing § 108.201(a). One suggested deletion of the provision allowing six industrial personnel not regularly employed on the unit to be accommodated in one space, and the other suggesting that the six person provision be expanded to cover all personnel. This section has not been changed in the final rule. The Coast Guard feels that there should be no difference in accommodation spaces for a unit's regular complement of industrial personnel and the required crew; the only exception being those industrial personnel onboard for short periods to conduct specialized operations. The four person per space standard is identical to the regulations applied to other types of vessels inspected and certificated by the Coast Guard.

One commentor, in addressing § 108.209, recommended that a requirement for specific medical gear and a medically trained crewmember be set forth in the regulations. While this section has not been revised, the Coast Guard agrees that the subject of specific medical equipment and personnel training needs to be addressed not just for mobile offshore drilling units but for all vessels. A Notice of Proposed Rulemaking is currently being prepared, with the assistance of the U.S. Public Health Service, that will propose requirements in these areas.

Thirteen commentors noted that the provision of § 108.219 was not consistent with the requirements for guardrails in 46 CFR Subchapter I. This discrepancy was not intended, and this section has been revised to be consistent with existing regulations.

Two commentors stated that the requirement for helicopter deck size in § 108.233(a), being based on rotor diameter, would result in an inordinately large deck for a tandem rotor helicopter. Both commentors submitted extensive data on these aircraft, and requested that the Coast Guard revise

the regulations to provide for this type of helicopter. In the development of the Notice of Proposed Rulemaking, the Coast Guard did not consider tandem rotor helicopters in specifying minimum landing deck size. The Coast Guard has received relevant information from the Federal Aviation Administration, and the question of tandem rotor helicopters was discussed at length at the IMCO Design and Equipment Subcommittee. The final regulations have been modified to include specification for minimum helicopter deck size if tandem rotor helicopters are utilized.

Seven commentors felt that the structural requirements for helicopter decks in § 108.235 should be more clearly stated, and should be consistent with classification society rules. The Coast Guard has rewritten this section to clarify the intended loading conditions, and they are generally based on classification society standards. The Coast Guard feels, however, that there is a need to investigate this requirement further to ensure that the currently used standard of 75 percent maximum helicopter weight on each main landing gear adequately matches the design capability of the helicopters used in offshore operations. If considered necessary, the Coast Guard will address this question again in future rulemaking. The revised regulations cross reference the FAA limit drop test which is used to define the design impact loading capability for each helicopter model. This replaces the previous reference to the collapse load of the landing gear.

One commentor was of the opinion that the 1.5 meter wide safety net proposed in § 108.235(f) was more than adequate and could itself possibly constitute an obstruction. To make this regulation more specific, and ensure that the safety net does not constitute an obstruction, the maximum height that the outer edge of the net may extend above the deck surface has been specified in the final rule.

Nine commentors suggested that the Coast Guard revise § 108.235(g) to require both a main and an emergency access route to the helicopter deck in lieu of the proposal of two access routes. It was stated that it may not be practical to provide two routes of equal construction and that this recommendation was consistent with present IMCO work. The Coast Guard agrees and has revised § 108.235(g) as suggested.

The Federal Aviation Administration considered the language in § 108.237 as being too vague and unenforceable. It was suggested that if the space available on a unit prevents compliance with National Fire Protection Association Bulletins #407, Aircraft Fuel Servicing, and #30, Flam-

mable and Combustible Liquid Code, "safe" storage location distances to the landing area or sources of vapor ignition should be specified. The Coast Guard does not agree with these observations. The referenced NFPA Standards were reviewed and are intended for land based aircraft operations, and not entirely appropriate for mobile offshore drilling units. Coast Guard regulations already incorporate much of the subject matter in NFPA #30 such as fire protection, tank design and testing, piping systems, and venting. The provisions of NFPA #407 addressing aircraft fueling hose have been adopted by the Coast Guard (§108.239(g)). The regulations, as presently written, will allow the Coast Guard to review and evaluate each helicopter fueling facility proposed for installation on a mobile offshore drilling unit.

One commentator suggested that the reference to the FAA Helicopter Design Guide (AC 150/5390-1A, November 5, 1969) be deleted from §108.241 since it did not contain significant information pertaining to mobile offshore drilling units. It was further suggested that specific requirements on visual aids for helicopter facilities be inserted in the regulations. The commentator suggested the wording which has been developed at IMCO as of June 1977 be used. Since the publication of the proposed rule, the Federal Aviation Administration has updated and republished their Helicopter Design Guide (AC No. 150/5390-1B August 22, 1977). The revised design guide includes the IMCO wording as submitted by the commentator, and makes reference to U.S. Coast Guard regulations for mobile offshore drilling units. Based on the aforementioned developments, the Coast Guard agrees with the commentator and has included in the final rule the agreed upon IMCO wording addressing the lighting and marking of helicopter facilities.

#### *Subpart C—Stability*

One commentator suggested that Subpart C of Part 108 be eliminated because future revisions of the American Bureau of Shipping (ABS) rules may not agree with this Subpart. The Coast Guard does not agree. The stability regulations of Subpart D prescribe minimum standards of intact and damage stability for certification. Should changes to these regulations become necessary or desirable, appropriate Notices of Proposed Rulemaking will be issued. The Coast Guard cannot anticipate possible changes to the ABS rules, nor the acceptability or unacceptability of future ABS rules for Coast Guard certification purposes.

Ten commentators suggested that §108.303 require "positive stability" in lieu of "positive metacentric height in the upright equilibrium position" for the full range of drafts. The commentators believe that the word "stability" provides for a more comprehensive and universal requirement, and that having positive metacentric height is insufficient. The Coast Guard does not agree. The basic intact stability requirement for all units in all anticipated drafts and loading conditions is that positive metacentric height (GM) be maintained. Use of the term "positive stability" could be misinterpreted to mean other stability parameters such as positive righting arm or positive righting moment. However, after careful consideration of this comment, the Coast Guard does believe that §108.303 needs to be modified to more clearly indicate the basic metacentric height requirements. Section 108.303 has been rewritten to indicate the minimum metacentric height requirements of 51 mm (2 inches) at all drafts.

Eleven commentators suggested that a new section be added to Subpart C to allow the use of alternate stability requirements if approved by the Commandant. Since §108.105 allows substitutions which insure a degree of safety consistent with the minimum standards of Subchapter I-A, it is not necessary to specifically indicate the treatment of alternate stability criteria. All such proposals would be considered in accordance with §108.105(b).

One commentator noted that the determination of the downflooding angle and the meaning of the term "small openings" under §108.305(c) are inexact and subject to varied individual interpretations. The commentator believes that openings fitted with the weather-tight appliances specified in §108.114(b), except ventilation intakes and outlets for engine rooms, crew spaces, and other spaces where ventilation is required at all times, should not be considered as downflooding openings provided they immerse after the point of wind-heeled static equilibrium (angle of the first intercept of the righting movement curve). The Coast Guard agrees. New §108.301 (c) and (d) have been added to define downflooding and downflooding angle more precisely. Section 108.305(c) has been modified accordingly, and the first intercept has been indicated on graph 108.305.

Several commentators suggested that use of a reduced wind velocity of 25.8 meters per second (50 knots) be allowed in the calculation of wind heeling moment (Hm) for certain operating conditions. Some commentators believe that is necessary for units certificated for operation only in lakes, bays, and sounds beyond the coastline.

Some commentators believe this is necessary for short field moves and special operations of existing units, such as drilling or repairing in shallow or sheltered waters. Other commentators believe this necessary for a number of existing units which are designed to allow the legs to be raised above the normal towing position to transit extremely shallow water areas. The Coast Guard has considered these comments in depth and does not agree that a reduced wind velocity should be allowed for special operating conditions or geographical areas. Prior experience indicates that mobile offshore drilling units may be subject to unexpected severe weather while in transit. Under the provisions of these regulations, new mobile offshore drilling units must be certificated for full ocean service.

Existing units will be certificated in accordance with the provisions of the Navigation and Vessel Inspection Circular, "Inspection and Certification of Existing Mobile Offshore Drilling Units". The acceptability of a reduced wind velocity stability criteria for field transit and other special operating conditions of existing units will be determined on an individual basis when requested by the owner during the certification process.

Several commentators suggested that wind heeling moments determined from wind tunnel test data be permitted as an alternative to the wind heeling moment calculations of §108.311. The Coast Guard agrees. Proposed §108.105(a) indicates that substitutes may be accepted if they provide an equivalent level of safety. Since wind tunnel test data and results would be subject to the same review as the calculations of §108.311, the Coast Guard can determine whether the data and results show that an equivalent level of safety is provided. Some commentators suggested that §108.311 be revised to include wind tunnel tests; however, since this would be a substitution for required calculations, the Coast Guard finds it more appropriate to clarify §108.105(a) by adding "calculations," to the list of acceptable alternatives.

One commentator observed that §108.315(a) prohibits progressive flooding which a unit might be able to endure. The commentator believes that progressive flooding should be permitted if the unit arrives at a satisfactory final equilibrium waterline. The commentator indicated that only additional flooding which would cause the unit to be unstable should be prohibited. The Coast Guard does not agree. The damage stability requirements provide minimum standards which the Coast Guard feels should be met or exceeded, not barely met. In case of severe damage, a prudent operator must attempt to control the extent of damage

and flooding to the best of his ability without delay. Since the equilibrium waterline permitted by § 108.315 can be above the main deck, a vessel may be in such a condition that flooding, with attendant increase in draft and heel and reduction in metacentric height, would endanger an already vulnerable vessel. Additional flooding must be prevented, therefore § 108.315(a) remains unchanged.

Two commentors indicated that the damage envisioned by proposed § 108.321(a) is extremely unlikely to occur. The Coast Guard agrees, and proposed § 108.321(a) has been deleted.

One commentor noted that the "uppermost deck" of proposed § 108.321(b) will probably be interpreted to mean uppermost continuous deck, and thus superstructures would not be subject to flooding. The commentor suggested that "uppermost deck" be changed to "uppermost continuous deck or first superstructure deck, where superstructures are fitted." The Coast Guard agrees that the first tier or superstructure would be assumed subject to flooding, and has incorporated the proposed wording.

One commentor interpreted proposed § 108.321(c) to exempt compartments in way of mat bottoms from the flooding assumptions. The intent of the proposed regulation was to require the assumption that each mat compartment be subject to flooding in a manner similar to the hull. Since the mat of a self-elevating unit is not subdivided into as many compartments as the hull and since the mat compartments generally are bounded by sides, top, and bottom of the mat, proposed § 108.321(c) has been revised to more clearly indicate the requirement for assuming each mat compartment to be subject to flooding.

One commentor noted that the permeability of 0.60 for cargo and storage spaces is not realistic and suggested the use of 0.95 for these spaces. The Coast Guard agrees. In those cases where the permeability may be less than 0.95, the actual permeability of the space may be calculated and used in lieu of the values given in Table 108.325. Since this option is provided, and since the tabular values are conservative, the permeability of cargo and storage spaces indicated in Table 108.325 has been changed to 0.95.

#### *Subpart D—Fire Extinguishing Systems*

Numerous commentors suggested that the Coast Guard limit the application of § 108.403(a) (3), (4), and (5) to propulsion related or marine systems machinery only. The primary concern was the possible loss of power during critical drilling operations. It was also stated that there was a vast difference between a marine engine

room and an industrial engine room. The Coast Guard feels that the fire potential is the same regardless of whether the machinery is utilized for marine or industrial systems, and does not agree with the comments. Coast Guard marine casualty files contain records of internal combustion engine fires that could not be controlled by portable or semiportable equipment. Additionally, the shutdown of drilling equipment can be controlled by the use of manually activated fixed systems. If not promptly combated by adequate firefighting equipment, the fire itself would most likely result in failure of the machinery.

The National Transportation Safety Board (NTSB) commented that the 1,000 BHP limit be removed from § 108.403, and suggested that fixed fire extinguishing systems be required in all internal combustion machinery spaces. The Coast Guard does not agree, and the regulation is published as proposed. The potential of a fire is primarily dependent upon the amount of fuel present. Smaller fires can usually be extinguished using portable or semiportable extinguishers without unreasonable danger to firefighters. A large fire, of course, would present a serious danger to both the personnel and the unit. Regulations for other types of vessels, as well as international conventions, use 1,000 BHP as the division point for fixed extinguishing systems.

The NTSB also stated that, in their opinion, due to the hazardous operational conditions and number of personnel aboard mobile offshore drilling units, § 108.404 should be modified to require fire detection systems in high risk areas (e.g. machinery spaces, paint lockers, lamp lockers, galley and accommodation spaces). As stated in the preceding discussion of structural fire protection, the Coast Guard feels that mobile offshore drilling units closely resemble cargo vessels with respect to relative hazard, and it should be noted that a fire detection system is not required on either a tank vessel or a cargo vessel. Another consideration applicable to mobile offshore drilling units is that the industrial operation requires 24 hour active employment of substantial numbers of personnel. Such personnel are alert and in position to act in an emergency. Therefore, the Coast Guard does not agree that a fixed fire detection system is necessary.

Seven commentors addressing § 108.425(c) recommended deletion of the reference to 46 CFR 162.027, the Coast Guard approval specification for combination nozzles. The Coast Guard does not agree. Other nozzle designs have been tested but have been found unsuitable in the marine environment. If other suitable nozzles are developed,

they may be submitted to the Coast Guard for approval, or accepted for installation on a unit under the general equivalency clause in § 108.105.

Sixteen commentors suggested deletion of the requirement in § 108.425(d) for low velocity spray applicator at certain fire stations stating that this equipment was outdated and that a combination nozzle is equally effective and can be put into operation instantly. The Coast Guard feels that while the combination of nozzle does provide a spray pattern, the applicator provides an option to the firefighter of attacking a fire from a greater distance or from around a corner. Approved combination nozzles may be equipped with optional low velocity spray heads if they meet the requirements in 46 CFR 162.027. However, this does not replace the applicator, if required.

Twelve commentors suggested revision of § 108.427, stating that the proposed requirement was in excess of the SOLAS Convention. Taking into consideration the fact that mobile offshore drilling units are in port only on rare occasions, the Coast Guard agrees with the commentors and has revised the regulation to be in conformance with the SOLAS Convention requirements for cargo vessels.

One commentor suggested that § 108.458 be amended to include references to National Fire Protection Association (NFPA) Standards 12-A and 12-B. The Coast Guard is presently working on detailed requirements for halogenated gas extinguishing systems. Portions of applicable NFPA Standards may be referenced in those regulations which will be published in a separate Notice of Proposed Rulemaking applicable to other types of vessels as well as mobile offshore drilling units. Until those regulations are finalized, the Coast Guard will continue to approve halogenated gas extinguishing systems on a case by case basis.

A total of twenty-two commentors suggested insertion into the regulations of a new section providing for the installation of aqueous film forming foam (AFFF) systems for use other than for helicopter facilities as provided for in § 108.487 and § 108.489. Many of the comments suggested AFFF application rates and various extinguishing system details. All of the commentors felt that AFFF was at least as effective as protein foam, and that by not including AFFF systems in the regulations, the Coast Guard was precluding the use of an effective type of fire extinguishing system. The Coast Guard agrees in part with the general philosophy presented by the commentors. AFFF systems are foam systems and may be approved as such on an individual basis. Foam rate and other details may be varied on the

basis of equivalency if variations are justified. A new §108.474 has been added to the final rule providing that AFFF systems may be installed if approved by the Commandant. This does not alter the intent of §108.487 and §108.489 which contain specific requirements for AFFF systems to protect helicopter facilities.

Nineteen commentors recommended complete deletion of the fire protection requirements for helicopter decks equipped with fueling facilities contained in §108.487. The commentors were of the opinion that these regulations are unnecessary and not justified by actual experience. The Coast Guard does not agree. The requirement for protection of helicopter decks equipped with fueling facilities is based upon the potential hazard.

One commentor felt that the foam application rate required by §108.487(b)(2) was a carry-over from foam systems for tank protection and was excessive for helicopter protection. The Coast Guard position is that the size of an extinguishing system should be related to the magnitude of the hazard. The application rates in the proposed rule are generally accepted rates for systems using hoses and monitor nozzles.

Three commentors suggested that Table 108.495(b) be amended to include fire extinguishers utilizing Halon 1211. The Coast Guard agrees and has amended Table 108.495(b) to include Halon 1211 fire extinguishers of the classifications presently recognized by the Coast Guard.

Nineteen commentors questioned the purpose of Note 3 to Table 108.495(a). Most of the commentors felt the proposed requirement was excessive and several interpreted the proposal as doubling the number of extinguishers required. In the proposed rule, Note 3 was inadvertently applied to the wrong table. It has been relocated in Table 108.495(b) where it applies to B-V extinguishers that are affected by wind or other environmental conditions. The note requires a doubling in the quantity of agent, not in the number of fire extinguishers, and is applicable to dry chemical and carbon dioxide extinguishers, but not to foam extinguishers. Rather than create a new Class B-VI semiportable fire extinguisher, the Coast Guard feels that the footnote to Table 108.495(b) is adequate.

#### *Subpart E—Lifesaving Equipment*

Several commentors questioned the necessity for mobile offshore drilling units to be equipped with covered lifeboats for 100% of the personnel on board as proposed in §108.503. Two of the commentors felt that the standby boat commonly employed negated the need for lifeboats, while another felt

that the number of lifeboats should be determined by the size of the transit crew. Other commentors felt that the requirements were not supported by experience in the Gulf of Mexico or that the requirements should be in accordance with existing regulations for cargo vessels.

The Coast Guard does not agree and the basic requirement remains unchanged. There is no guarantee that a standby boat will be available 100 percent of the time in case of a casualty. Furthermore, during some casualties, personnel have had to enter the water in life preservers at night thus making recovery extremely difficult. The requirement for 100 percent lifeboatage includes both the drilling and transit modes of operation. Redundancy is considered necessary inasmuch as a casualty, such as fire or explosion while on location, or heavy weather while in transit, may cause a lifeboat to become unusable. As the primary escape system, there should be one lifeboat available even if one becomes inoperable. If half of the complement of personnel must use liferafts, there would then still be a powered boat available to pick up persons in the water or to tow liferafts out of danger. An exception has been made only for those units with a small complement of personnel.

One commentor suggested that provisions for lifeboats be minimized and the reference in §108.503(d) to Subpart 94.20-10 for lifeboat equipment be eliminated. The Coast Guard agrees and has added paragraphs (d) through (g) to §108.503. These new regulations eliminate certain items of equipment, and include provisions for units not in international service.

The preamble to the proposed rule stated that although the proposal would require either davit launched or throw-over type inflatable liferafts for 100 percent of the persons on board, further consideration was being given to require davit launching equipment for the required inflatable liferafts. Comments on this subject were specifically requested. Four comments addressing the requiring of davit launched liferafts were received, and were all in favor of the installation of davit launched liferafts on mobile offshore drilling units. The commentors pointed out problems in utilizing throw-over type rafts on mobile offshore drilling units such as height above the water, and the probability of entering the water to board the raft, including the possibility of having to jump from a considerable height. It was further pointed out by the commentors that the davit launched liferaft in allowing personnel to board the raft at deck level and be lowered to the water would thereby

eliminate most of the problems experienced with throw-over type rafts.

The Coast Guard feels that the shortcomings cited for conventional rafts are accurate. In addition, further testing of a davit launched system has been conducted in the Gulf of Mexico. These tests have shown the davit launched concept to be sound, and the Coast Guard is now approving davit launched systems for installation on vessels. Therefore, §108.505 and §108.508 have been modified to require davit launched liferafts where the raft can be launched from more than 3 meters above the water. This provision has been included because anything above that height is considered to be too far to jump and swim to the raft.

Several commentors felt that specific words should be added to §108.505 allowing for the substitution of inflatable liferafts for the required lifeboats when approved by the Commandant. The Coast Guard feels that the general equivalency clause in §108.105 makes adequate allowance for the substitution of required equipment providing an equivalent level of safety is maintained.

Ten commentors recommended that the words "against the unit" be deleted from §108.508(a)(5) stating that these words could pose a compliance problem because of the configuration of some units. The Coast Guard agrees, and has replaced the words "against the unit" with the words "in a location."

Ten commentors suggested limiting the requirement for whistles on life preservers in §108.514(d) to those units on an international voyage and they seriously questioned the effectiveness of the whistles under any circumstances. The Coast Guard does not agree, and feels that whistles can effectively assist in the location of persons in the water regardless of whether or not the unit is on an international voyage.

Section 108.521 has been revised to require distress signals on all units. This change incorporates the recommendation of the Coast Guard Marine Board of Investigation that investigated the capsizing and sinking of the *Ocean Express* on April 15, 1976.

#### *Subpart F—Cranes and Power Operated Industrial Trucks*

Four commentors recommended that the proposed requirements for power operated industrial trucks in §§108.611, 108.613, and 108.615 be deleted because power operated industrial trucks are rarely used on mobile offshore drilling units. The Coast Guard does not agree. Power operated industrial trucks are used routinely on mobile drilling units, and the minimum regulations proposed are consid-

ered necessary for safety. These sections have therefore been adopted as proposed.

One commentator questioned the proposed requirement for each truck to be approved by a nationally recognized testing laboratory since the Occupational Safety and Health Administration standards in 29 CFR 1910.178 require approved trucks only in hazardous locations. The Coast Guard feels that testing laboratory certification of all trucks used on mobile offshore drilling units is necessary since the trucks may be utilized in classified areas as defined in § 108.170.

#### *Subpart G—Equipment Markings and Instructions*

Two commentators pointed out that the requirements for the marking of lifeboats contained in § 108.645 were not appropriate for the type of survival craft known as a "capsule." One of these commentators also suggested that the marking of the cubic capacity on survival craft was not appropriate for totally enclosed boats. The Coast Guard agrees with both commentators, and has added wording to the regulations to address "survival capsules". The Coast Guard also agrees that lifeboat cubic capacity is an obsolete concept for totally enclosed boats, and has deleted this requirement. Proposed § 108.645(b)(2) has also been deleted because it duplicated requirements of Coast Guard approval specification contained in 46 CFR Subpart 160.033.

Nine commentators felt that the proposed requirements for marking appliances for watertight integrity in § 108.665 were unreasonable in that they would require marking of fittings such as bolted manhole covers. The Coast Guard agrees and has modified the text to specify which appliances must be marked.

Seventeen commentators suggested that § 108.709 be revised to require a litter, of an unspecified type, capable of being used on helicopters. The Coast Guard agrees that the litter provided should be transportable by helicopter. The word "stokes" has therefore been deleted and the section rewritten in its entirety.

One commentator, in addressing § 108.705, stated that many units, especially the self elevating type, are constructed without the circle E designation of the American Bureau of Shipping because this designation is voluntary. The commentator further stated that in such cases, the classification society will normally accept mooring and anchoring equipment of a size somewhat less than the sizes required by the classification rules, and requested that the Coast Guard do likewise. The Coast Guard feels that the requirements, as proposed, are the

minimum requirements regardless of what classifications the unit is constructed to. The regulation is adopted as proposed.

Two commentators suggested that alternatives be provided to the proposed requirement for the Mining Enforcement Safety Administration approved first aid kit in § 108.707. As previously stated, the Coast Guard feels that the general equivalency class in § 108.105 makes adequate provision for the substitution of required equipment. One of the commentators also stated that the use of smaller kits should be allowed where accommodation spaces and work areas may be widely separated. The Coast Guard has no objection to the use of smaller approved kits which together would provide for the total number of persons on board.

#### PART 109—OPERATIONS

Seven commentators recommended the addition of a second sentence to § 109.107 to provide for the master or person in charge to take whatever action he may deem necessary in emergency conditions. The Coast Guard agrees that inclusion of a provision expressing the philosophy contained in the comment is desirable. Therefore, wording similar to that contained in other vessel inspection regulations has been added to § 109.109.

Ten commentators suggested modification of § 109.121(c) by the addition of the words "under normal and emergency conditions" at the end of this section to assure that all operating and emergency aspects are covered in the operating manual. The Coast Guard agrees and has modified § 109.121(c) as suggested.

Twenty-two commentators, in addressing § 109.203(b), pointed out that there is no "chief engineer" in the accepted marine understanding of that term on board many units to ensure the cleanliness of engineering spaces. This is true especially on those units which have no propulsion machinery. The Coast Guard agrees and has modified this section to place the responsibility on the master or person in charge if the unit does not have a "chief engineer" in its complement.

Twenty commentators suggested modification of § 109.205. The main point of the comments was that the Coast Guard does not have a legitimate interest in whether or not a unit's industrial machinery is operative. These comments have been accepted in part and the words "other than industrial machinery" have been added to this section. Coast Guard responsibility regarding "industrial machinery" is considered to be limited to the safety aspects of that machinery. The requirement to report all unsafe machinery is retained in § 109.419.

Eighteen commentators questioned the proposed requirements for testing of storage batteries for emergency lighting and power systems in § 109.211(c). Most of the commentators felt that the proposed duration of the tests was excessive. The Coast Guard agrees that the full 12 hour test would not be satisfactory since the battery would not be available for use at the end of the test. This section has been revised, specifying the testing interval as 6 months, and the test duration as two hours with the test results to be extrapolated to approximate the values that would result following a 12 hour test period. A short circuit breakdown test, suggested by some of the commentators, is not considered a suitable test of the battery capacity.

Eleven commentators suggested revision of § 109.215(c) stating that weekly launching of a lifeboat was impractical and could be dangerous particularly during recovery of the boat. The Coast Guard agrees in part with the commentators and has modified § 109.215(c) to read "weather permitting at least one lifeboat is partially lowered and its engine started and operated." Section § 109.217(a) has also been modified to ensure that the lowering of the lifeboat to the water, required by that section, is accomplished during one of the required boat drills. These changes are consistent with other vessel regulations.

Eleven commentators felt that the proposed requirement in § 109.323(b) for the person assigned to command a lifeboat or liferaft to have a list of the persons assigned seats in that survival craft was unreasonable. Most of these commentators felt that it should be the responsibility of each person to take their assigned seat. The Coast Guard feels that the person in charge of the lifeboat or liferaft should have a list indicating all persons assigned to his survival craft for the simple purpose of making a head count. However, this section has been modified so that the list may be by job titles or station bill numbers. This is considered reasonable due to the constant rotation of personnel aboard mobile offshore drilling units.

Seven commentators addressed the qualifications of persons assigned to command lifeboats or liferafts, and recommended the addition of "a qualified person designated by the master or person in charge" to the provisions of § 109.323(a). The Coast Guard does not agree and remains of the opinion that all persons assigned to command survival craft must be licensed deck officers, able seamen, or certified lifeboatmen.

Twenty commentators felt that the figure \$1,500 as one of the criteria in § 109.411 for a reportable marine casualty was unrealistic. Nineteen of the

commentors felt that the figure \$15,000.00 should be substituted, while one commentor suggested that the paragraph on property damage be deleted entirely. The Coast Guard is in partial agreement with the commentors in that the existing monetary figure is not realistic. The amount of \$5,000.00 has been inserted into § 109.411(a)(1). The figure is consistent with a pending regulatory change that will affect other inspected vessels. A property damage figure is considered necessary to provide for analysis of casualties which may affect the unit and its personnel. Also, the damage might not be to the unit but to other property.

Section 109.411(a)(2) has been corrected by adding the words "or efficiency" after the word "seaworthiness" to conform with applicable statutes. Explanatory language has been added to more clearly indicate the types of incidents required to be reported.

Section 109.411(a)(5) has been revised in order to not exclude harbor workers who might suffer an incapacitating injury while on board a mobile offshore drilling unit. Though an incapacitating injury resulting from a unit casualty, or failure of unit equipment is currently reportable, it is intended that incapacitating injuries resulting from other causes be investigated. Also, personal injuries include not only those to harbor workers, but also those to subcontractors or visitors. Provisions concerning hospitalization have also been added.

Twenty commentors felt that the provisions of § 109.419 and § 109.121 should be limited to marine oriented machinery only. All commentors apparently felt that the Coast Guard's interest was limited to those instances which affect the safety and seaworthiness of the unit. This is not the case. Coast Guard responsibility also extends to the safety of personnel on the unit, regardless of whether they are engaged in industrial or marine related activities. The proposed regulation is therefore adopted without change.

Seven of the same commentors on the previous section suggested the addition of the words "on marine systems and components" to the title of § 109.423. The commentors apparently did not realize that this regulation is applicable only to required safety valve seals and that Coast Guard seals are required only on boilers. For clarification, the word "boiler" has been added to the first sentence of § 109.423(a).

A total of 13 commentors suggested numerous revisions to § 109.433. Most of the comments were apparently due to a lack of understanding of the proposed rules. The Coast Guard has rewritten this section to clarify "applica-

ble" log entries, and to indicate when certain data on draft, load line marks, and appliances for watertight integrity must be logged.

Seventeen comments were received concerning § 109.437(i). They recommended that the records and original certificates, or certified copies of certificates, for loose gear, wire rope and the annealing of wrought iron gear be maintained by the owner for safekeeping rather than on the unit with the crane record book. This recommendation was not adopted since these records and certificates must be available to the Coast Guard inspector or certifying agency officials during any crane inspection. More important, they should be available to the unit's personnel for the identification of the tested gear. These documents can be kept on the unit with other records maintained for the cranes.

Those provisions of proposed § 109.437 relating to crane certificates has been placed in a new § 109.439 in order to separate the requirement to maintain a crane record book from the requirement of maintaining crane certificates.

One comment recommended that § 109.437(a)(2) be revised to provide for a load rating chart for each boom length which may be utilized. This is consistent with API RP 2D 2.1.3L and API Spec 2C 2.4, and the recommendation has been included.

Seventeen commentors felt that § 109.501 should be modified in view of the continuous movement of personnel on and off the unit and the regular presence of temporary personnel such as visitors and contractor's representatives. The Coast Guard agrees that some clarification is desirable regarding assignments of temporary personnel and visitors, and therefore has added a new paragraph to § 109.505. Section 109.501 is considered adequate and has not been changed.

Ten commentors were of the opinion that the references in § 109.557(b) regarding portable tanks were incorrect inasmuch as the Coast Guard had cancelled 46 CFR 98.30, and that the provisions of 49 CFR 170 to 189 are not applicable. The Coast Guard does not agree. 46 CFR 98.30 has not been cancelled, and certain portions of the reference regulations in 49 CFR are applicable to portable tanks. This section has, however, been revised to make the reference to 49 CFR more specific.

One commentor suggested that § 109.559(b) be deleted entirely since the referenced 46 CFR Part 147 does not provide for storage of explosives or radioactive materials as ships stores and supplies. The commentor is correct, and § 109.559(b) has been deleted. The Coast Guard is currently reviewing all of the ship stores regulations in 46 CFR 147, and will address this sub-

ject in a future Notice of Proposed Rulemaking.

Seven commentors felt that the provisions of § 109.573 would result in a duplication and overlapping regulatory requirements between the Coast Guard and the U.S. Geological Survey. The commentors referenced the provisions of USCGS, OCS Order No. 8 for the Gulf of Mexico which contain certain requirements for welding or burning operations on Federal Leases on the Outer Continental Shelf. The commentors suggested that the words "on marine systems and components" be added to the title of § 109.573. The Coast Guard feels that there is no conflict between revised OCS Order No. 8 and § 109.573. The Memorandum of Understanding addressing regulation of mobile offshore drilling units on the Outer Continental Shelf, signed by the Coast Guard and the U.S. Geological Survey on 11 April 1977, addresses welding or burning operations in the following manner: The U.S.G.S. will exercise proper control of arc or acetylene welding or cutting during drilling operations (considering the possible gas hazards). The Coast Guard is responsible for standards for arc or acetylene welding or cutting operations affecting structural integrity or installed equipment. Also, Coast Guard regulations are applicable to a U.S. flag unit in any geographical location, while OCS Order No. 8 is applicable only on the Outer Continental Shelf of the United States.

Thirteen commentors suggested deletion of § 109.587. All of the commentors felt that there was no justifiable reason for this section which would prohibit the use of sleeping spaces below the main deck of a self-elevating unit while the unit is afloat.

The proposed § 109.587 was based on past capsizings of small self-elevating units where personnel were trapped below decks. The Coast Guard has considered the comments and feels that since these rules apply operating requirements to self-elevating units not previously subject to such requirements, this section as proposed is not necessary. Section 109.587 has therefore been deleted, and § 108.195 has been modified to address all types of units.

#### SUBCHAPTER F

Because of numerous comments received, the Coast Guard has added an equivalency section to Subpart 58.60 for industrial systems on mobile offshore drilling units. This section is the same as § 108.105 in Subchapter I-A.

Eleven commentors recommended that a new section be added to the regulations at § 50.15-25 to read as follows:

"The standards of organizations listed or referenced to in this chapter

which are to be used in the design, material and fabrication of industrial systems are accepted without specific adoption provided the standards apply to the industrial use intended." The Coast Guard does not agree with the recommendation. Standards other than those specifically adopted must be reviewed by the Coast Guard to determine applicability for the service intended. This is considered necessary for maintenance of an acceptable level of safety.

Twenty-one commentors addressed the proposed revisions to § 54.01-16. In general, all of the commentors were of the opinion that the proposed regulation was unduly restrictive, would put excessive burdens on unit owners in obtaining acceptable equipment, and that the need for such a requirement was not indicated by past experience. The Coast Guard feels that the proposal was not fully understood by some of the commentors.

Section 54.01-16 as it presently exists provides for acceptance of ASME Code pressure vessels, other than those used for storage of compressed air (gas), for installation in industrial systems. Under the existing regulation, all industrial pressure vessels which contain compressed air (gas) are subject to full Coast Guard plan review and shop inspection. The proposal would eliminate Coast Guard plan review or shop inspection for any pressure vessel, except those of class I-L and II-L, installed in an industrial system. The regulation has been revised to clarify this point. Although several of the commentors suggested that the proposed Coast Guard requirements constitute a standard both independent and different from industry standards commonly used, the regulations are, in fact, based on the most widely accepted industrial consensus standard for pressure vessels, the ASME Code. Coast Guard regulations for pressure vessels, although patterned after the ASME Code requirements, have always provided for specific marine application of that general service code. Since ASME Code requirements do not include specific or complete consideration of product stored, pressure, and temperature, the requirements of 46 CFR Part 54 coordinate the specific application with the selection of design details, level and type of nondestructive testing, and heat treatment of welds. Since those Coast Guard requirements which may exceed the ASME Code for industrial pressure vessels represent typical owner-option alternatives under the Code, the requirements of § 54.01-16, as proposed, are not considered unduly restrictive, and are adopted.

Eleven commentors suggested that proposed § 56.01-1(c) be revised to in-

dicating that piping for industrial systems need not fully comply with the requirements of Part 56 but must meet Subpart 58.60. Another commentor suggested that proposed § 56.01-1(c) be deleted in its entirety stating that Coast Guard regulation in this area is unnecessary. The Coast Guard agrees with the proposed revision of paragraph (c) and has modified it accordingly.

Regarding the suggestion to delete this subsection entirely, the Coast Guard is tasked with the responsibility of ensuring that a minimum level of safety is maintained. To this end, the Coast Guard has adopted ANSI B31.3, API RP 53 and API RP 14C as the minimum requirements for industrial piping systems.

In addressing the provisions of § 56.50-50(d)(1), one commentor recommended that the Coast Guard give consideration to allowing the use of the average breadth (B) of a unit rather than the maximum breadth (B) when calculating the internal diameter of bilge suction pipes for triangular shaped units. The commentor submitted extensive data supporting the recommendation. After review of the submitted data, the Coast Guard agrees with the recommendation and has added a note 5 under § 56.50-50(d)(2) providing that for mobile offshore drilling units employing unusual hull forms, "B" may be modified to the average breadth rather than the maximum breadth.

Eleven commentors recommended that a new paragraph (f)(7) be added to § 56.50-50 to state that an emergency bilge suction is not required in multihulled and column stabilized mobile offshore drilling units where pump rooms are located below the water line if more than one pump also serves as a bilge pump through interconnecting piping or manifolding, and where a bilge suction is provided at each end of the pump room bilge. The Coast Guard does not agree. Emergency bilge suction provide a last line of defense and are considered necessary. The multiple pumps and multiple bilge suction are already required under existing regulations for bilge systems.

Eleven commentors felt that the note inserted below table 56.50-55(b)(1) should be deleted since there is no definition for a "machinery space" on any type of vessel.

This note was inadvertently misplaced in the Notice of Proposed Rule-making and is applicable to § 56.50-50(f)(6), not to the table. The term "Machinery space," as used throughout Subchapter "F" generally refers to those spaces containing propulsion equipment, with the proposed clarification for mobile offshore drilling units included. The Coast Guard feels

that the addition of a definition for this existing term is unnecessary.

Eleven commentors suggested, that for clarity, a new subparagraph § 56.50-55(a)(6)(i) be added stating that one of the required bilge pumps may be attached to a propelling engine in each hull. The Coast Guard agrees with the intent of the commentors and, in lieu of a new subparagraph, has added a second sentence to existing § 56.50-55(a)(3).

Eighteen commentors addressed § 58.60-1. One of the commentors recommended that entire Subpart 58.60 be deleted since self regulation of the industrial systems on mobile offshore drilling units has been eminently successful. Another commentor felt that Coast Guard involvement should be strictly limited to the high pressure piping of the mud and cement systems. The Coast Guard does not agree with these comments. The Coast Guard is required to oversee industrial systems from the safety aspect. It is considered necessary to prescribe regulations adequate to provide a level of safety equivalent to that which exists in other safety-sensitive systems aboard vessels. The proposed regulation is based on industry standards with modification to those standards where considered necessary. Nine commentors suggested that the words "shale shakers; desanders, and degassers" be deleted from § 58.60-1(b) since they are not industrial systems and are of no interest to the Coast Guard. The same commentors also suggested that § 58.60-1(c) be deleted since the oversight of blowout preventer control systems lies with the U.S. Geological Survey. The Coast Guard does not agree. Shale shakers, desanders, and degassers are components of the circulation system and meet the definition of industrial systems in § 107.111 in that they perform an industrial function. The Coast Guard's main area of interest regarding blowout preventer (BOP) control systems is in regard to safety of pressure vessels and pressure piping, and is not considered to be duplicative of that done by the U.S. Geological Survey which specifies the make-up and performance standards for BOP Systems on the Outer Continental Shelf of the United States.

Twenty commentors suggested major revisions to § 58.60-7. One of the commentors simply suggested that the reference to ANSI B 31.3 be deleted as not applicable. The other nineteen commentors recommended that the Coast Guard adopt ANSI B 31.4 and B 31.8 (pipeline standards) as well as any applicable American Petroleum Institute (API) requirements for industrial system piping. The same nineteen comments also suggested that the reference to API RP53 be deleted inas-

much as the oversight of blowout preventer control systems rests with the U.S. Geological Survey. The Coast Guard does not agree and the regulation has been adopted as proposed. ANSI B 31.4 and ANSI B 31.8 are intended for oil and gas transportation (pipeline) and are not considered applicable to industrial systems in the marine environment. The Coast Guard feels that B 31.3 will provide the required measure of safety that B 31.4 and B 31.8 do not provide. While B 31.3 is not written specifically for these systems, it will provide an adequate design standard for industrial piping systems. The Coast Guard interest in blowout preventer control systems has been already covered in addressing the comments on § 58.60-1(c).

Eleven commentors suggested that § 58.60-9 be revised inasmuch as API 14C was not intended for use with mobile offshore drilling units. All of the commentors agreed, however, that the principles of API 14C could be applied in conducting the proposed analysis. The Coast Guard agrees, and has rewritten § 58.60-9 to require that the industrial systems be designed and analyzed in accordance with the principles of API 14C.

Eighteen commentors recommended that the provision in § 58.60-11 for certification of the required analysis by a registered professional engineer be deleted, and that certification by the owner be allowed. The Coast Guard feels that an engineering review consistent with that employed for standard shipboard systems is necessary. Owner certification is not considered a suitable alternative for piping system design, but analysis and certification in conjunction with the engineer registration program should provide the required objectivity.

#### SUBCHAPTER J

Numerous commentors noted that the proposal made reference to certain parts of 46 CFR Subchapter J *Electrical Engineering Regulations* which could not be located in that subchapter. The proposal was drafted using the numbering from completely revised Subchapter J which was scheduled to be published in the FEDERAL REGISTER as a proposed rule simultaneously with proposed Subchapter I-A. However, the Subchapter J proposal was not published until June 27, 1977 (42 FR 3200) which was after most comments on Subchapter I-A had been submitted. Those portions of the Subchapter J proposal which addressed mobile offshore drilling units were the subject of considerable comment by the offshore industry. These comments have been evaluated and, simultaneously with this rulemaking, those amendments to the Electrical

Engineering regulations which address mobile offshore drilling units are being published as amendments to the existing Subchapter J. All references contained in Subchapter I-A have been corrected.

Section 110.25-1(j) of the proposed rules has been changed to § 111.05-5(d)(22) for insertion in the existing rules. Three commentors indicated that plans showing the location of electrical equipment that is in hazardous locations should be required for all vessels with a fourth commentor suggesting the requirement should be applicable to LNG vessels. The Coast Guard agrees. The provision has been changed to require the plan to be submitted for all vessels carrying hazardous products in bulk. This requirement basically formalizes present policy.

One commentor suggested that all parts of the mud circulating system including open portions of the system downstream of the final degassing should be considered as Division 1 Locations. This suggestion was based on the premise that degassers cannot be assumed to be 100 percent efficient or working at all times. This point has been discussed with the oil industry at both a national and an international level. It is felt that the hazard downstream of the final degassing station is such as to justify a minimum safety classification of Division 2 spaces. It is pointed out that such spaces would be upgraded to Division 1 spaces if they do not have a good ventilation system under the requirements of § 111.92-3(c)(4).

One commentor suggested that loss of ventilation overpressure should automatically disconnect electrical power to nonessential equipment that is unsuitable for use in Division 1 areas. The Coast Guard agrees that nonessential equipment should not be located in a space that is a hazardous space. This is also contained in the proposed IMCO regulations for mobile offshore drilling units. This is inferred in Article 500-1 of the National Electrical Code referenced by § 111.105-5 of the proposed regulations and § 111.80-5(a)(4) of the existing rules. This intent has been clarified by adding a paragraph to include spaces made nonhazardous by means of ventilation.

One commentor felt that proposed § 111.105-33 provided a substantial relaxation from present policy in the areas that were considered Class I Division 1 locations. The present hazardous area classification requirements were based on API RP 500B, First edition. As more experience was gained in the operation of mobile offshore drilling units, the hazardous area classifications were changed to those appearing in API RP 500B Second edition

published in 1973. This latter edition's guidelines basically parallel the requirements of these rules. The hazardous areas indicated in the proposed rules were contained in an early report of the IMCO Mobile Offshore Drilling Units Ad Hoc Group on Machinery and Electrical Installations. These guidelines have undergone some changes and are reflected in the rules as written. The evaluation of the classification of the various spaces on a mobile offshore drilling unit has been an international effort involving governmental agencies, the oil industry, and the classification societies. It is felt that the hazardous areas, as defined, present a realistic assessment of the flammable vapor hazard.

Two commentors felt that the industrial systems of a mobile offshore drilling unit should not be regulated and that the application of Subchapter J or the National Electrical Code, as provided, will preclude some present industry practices. One particular example is the contention that the amp capacity tables referenced in Subchapter J and those in the National Electrical Code would require increased conductor cross sections of up to three times current practice. The amp capacity tables contained in this Subchapter and those in the National Electrical Code represent the national standards for shipboard and industrial installations respectively and are applicable to mobile offshore drilling units. The Coast Guard and the Maritime Administration are presently funding a research project with the intent to produce a standard which would establish performance requirements. However, until this project is completed, it will be necessary to use one of the above national amp capacity tables.

One commentor questioned why the standard of safety was not the same for "industrial" systems as for "ship" systems. The NEC, coupled with the additional requirements of § 111.94-1, provide an acceptable level of safety for personnel and the unit. A failure of an industrial function means the mission of the unit will not be carried out whereas a failure of a steering gear, fire pump, bilge pump, etc could endanger the unit. This subpart, as written, provides for protection of the equipment operators and safety from fire, shock, or other injury associated with the electrical installation but not the additional redundancy and protection required for "ship" systems.

#### NAVIGATION AND VESSEL INSPECTION CIRCULAR

A total of eight commentors addressed the draft Navigation and Vessel Inspection Circular (NVC) which was discussed in the preamble to the proposed rule and referenced in

several sections of Part 107 of the proposal.

Several of the commentors questioned the legality of the references to the draft NVC, since the contents of the draft NVC were not included in the proposed rule. The draft NVC was made a part of the public rulemaking docket, therefore making it available to the public for comment. Thus, the requirements of the Administrative Procedures Act have been met. Under 5 U.S.C. 552(a) and 1 CFR Part 51, "matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein . . ."

One of the commentors submitted an alternative draft of the NVC for consideration. The remaining commentors suggested minor revisions to various sections of the draft. Upon evaluation of the comments the Coast Guard feels that some portions of the draft NVC were not fully understood by the commentors. The NVC has been rewritten to clarify its application and highlight its intent to be as flexible as possible and still provide for an acceptable level of safety on all existing units. The Coast Guard also re-evaluated the draft NVC to determine the best method of presenting it in relation to the final rule on mobile offshore drilling units. As a result of this re-evaluation, the Coast Guard is, in addition to promulgating the document as an NVC, publishing the entire NVC as Appendix "A" to Subchapter I-A, ensuring its availability to all persons concerned.

Accordingly, Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

**SUBCHAPTER F—MARINE ENGINEERING**

**PART 50—GENERAL PROVISIONS**

1. By adding a new § 50.01-1(j) to read as follows:

§ 50.01-1 Authority for regulations.

(j) *Mobile offshore drilling units.* The citation regarding authority to prescribe requirements for mobile offshore units is in Subchapter IA of this chapter.

2. By adding a new § 50.05-1(e) to read as follows:

§ 50.05-1 General.

(e) Industrial systems and components on mobile offshore drilling units must meet § 54.01-16 and Subpart 58.60 of this chapter.

3. By adding a new § 50.05-10(b) to read as follows:

§ 50.05-10 Alterations or repairs.

(b) When alterations or repairs are made to a U.S. flag vessel in a port or place not in the United States, a notice containing details of the proposed alterations or repairs must be submitted to the appropriate Officer in Charge, Marine Inspection.

4. By revising § 50.05-15(a) to read as follows:

§ 50.05-15 Vessels subject to regulations in this subchapter.

(a) Passenger vessels, tank vessels, cargo and miscellaneous vessels, nuclear vessels, nautical schoolships, mobile offshore drilling units, and oceanographic vessels are subject to the regulations in this subchapter to the extent prescribed by various laws and regulations as described in § 50.01-1. The applicable provisions in this subchapter shall apply to all such U.S. flag vessels, and to all such foreign vessels which carry passengers from any port in the United States except as follows:

5. By adding a new § 50.15-20(a)(13) to read as follows:

§ 50.15-20 Additional standards.

(13) American Petroleum Institute (API), 1201 L Street, Washington, D. C. 20037.

**PART 54—PRESSURE VESSELS**

6. By revising § 54.01-16 to read as follows:

§ 54.01-16 Mobile offshore drilling units: pressure vessels for industrial systems.

(a) A Class I, II, or III pressure vessel which is a component in an industrial system under Subpart 58.60 of this chapter is accepted by the Coast Guard for installation on a mobile offshore drilling unit if it meets the requirement of Table 54.01-5(b) in full, or if it—

(1) is stamped "U" under Section VIII of the ASME Code;

(2) meets the postweld heat treatment and the minimum joint and radiographic requirements of Table 54.01-5(b); and

(3) has pressure-relief devices that meet Subpart 54.15 of this chapter.

(b) Class I-L and II-L pressure vessels must meet the requirements of

Table 54.01-5(b) in full and are not accepted under § 154.01-16.

**PART 56—PIPING SYSTEMS AND APPURTENANCES**

7. By revising § 56.01-1(c) to read as follows:

§ 56.01-1 Scope (replaces 100.0).

(c) Piping for industrial systems on mobile offshore drilling units need not fully comply with the requirements of this part but must meet Subpart 58.60 of this subchapter.

8. By adding a new paragraph (d-1) to follow paragraph (d) in § 56.01-10 to read as follows:

§ 56.01-10 Plan approval.

(d-1) Plans of piping for industrial systems on mobile offshore drilling units must be submitted under Subpart 58.60 of this subchapter.

9. By revising § 56.50-10(b) to read as follows:

§ 56.50-10 Special gaging requirements.

(b) Fuel oil service, fire, cargo and fuel oil transfer and boiler feed pumps must be provided with a pressure gage on the discharge side of the pump. Additional information pertaining to fire pumps is in § 34.10-5 of Subchapter D (Tank Vessels), § 76.10-5 of Subchapter H (Passenger Vessels), § 95.10-5 of Subchapter I (Cargo and Miscellaneous Vessels), and § 108.417 of Subchapter IA (Mobile Offshore Drilling Units) of this Chapter.

10. By revising § 56.50-15(h) to read as follows:

§ 56.50-15 Steam and exhaust piping.

(h) Steam piping with the exception of the steam heating system must not be led through passageways, accommodation spaces, or public spaces unless the arrangement is approved by the Commandant. Steam pressure for space heating must not exceed 45 pounds per square inch. High temperature hot water may be used for heating systems above this pressure, but not to exceed 375° F. Such systems should be designed as a complete unit and submitted for approval to the Commandant.

11. By revising § 56.50-50 (d) and (e) and adding new § 56.50-50(f) (5) and (6) to read as follows:

§ 56.50-50 Bilge and ballast piping.

(d) \* \* \*

(1) For suction to each main bilge pump:

$$d=1+\sqrt{\frac{L(B+D)}{2500}} \quad (1)(4)(5)$$

(2) For branch suction to cargo and machinery spaces:

$$d=1+\sqrt{\frac{c(B+D)}{1500}} \quad (2)(3)(5)$$

where:

L=Length of vessel on loadwater line, in feet.

B=Breadth of vessel, in feet. (5)

D=Molded depth of bulkhead deck, in feet.

c=Length of compartment, in feet.

d=Required internal diameter of suction pipe, in inches.

NOTE 1.—For tankers "L" may be reduced by the combined length of the cargo oil tanks.

NOTE 2.—For bulk carriers with full depth wing tanks served by a ballast system where the beam of the vessel is not representative of the breadth of the compartment, "B" may be appropriately modified to the breadth of the compartment.

NOTE 3.—In the calculation for a vessel with more than one hull, such as a catamaran, the breadth of the unit is the breadth of one hull.

NOTE 4.—In the calculation for a mobile offshore drilling unit, "L" is reducible by the combined length of spaces that can be pumped by another piping system meeting §§ 56.50-50 and 56.50-55, where "L" is the length of the unit at the waterline.

NOTE 5.—For mobile offshore drilling units employing unusual hull forms, "B" may be modified to the average breadth rather than the maximum breadth.

(e) *Independent bilge suction.* One of the independent bilge pumps must have a suction of a diameter not less than that given by Formula (2) in paragraph (d) of this section that is led directly from the engine room bilge entirely independent of the bilge main, and on passenger vessels each independent bilge pump located in the machinery spaces must have such direct suction from these spaces, except that not more than two pumps are required to have direct suction from any one space. A suction that is led directly from a suitably located

pump manifold may be considered to be independent of the bilge main. Where two direct suction are required in any one compartment on passenger vessels, one suction must be located on each side of the compartment. If watertight bulkheads separate the engine and boiler rooms, a direct suction or suction must be fitted to each compartment unless the pumps available for bilge service are distributed throughout these compartments, in which case at least one pump in each such compartment must be fitted with direct suction in its compartment. In a vessel with more than one hull, there must be one bilge pump that has an independent bilge suction in each hull. In a column stabilized mobile offshore drilling unit, the independent bilge suction must be from the pumproom bilge.

(f) \* \* \*

(5) Each vessel with more than one hull must have an emergency bilge suction in each hull.

(6) Each column stabilized mobile offshore drilling unit must have—

(i) An emergency bilge suction in each hull; and

(ii) A remote control for the emergency pump and associated valves that

can be operated from the ballast control room.

\* \* \* \* \*

NOTE: For the purposes of this section, a pumproom is a machinery space on a column stabilized mobile offshore drilling unit.

12. By adding a fourth category of vessel to Table 56.50-55(a) to read as follows:

TABLE 56.50-55(a).—Power Bilge Pumps Required for Self-Propelled Vessels

Vessel length, in feet	***	Mobile offshore drilling units, all waters
180' or more.....	***	2
Below 180' and exceeding 65'.....	***	2
65' or less.....	***	2

13. By adding a fourth category of vessel to Table 56.50-55(b)(1) to read as follows:

TABLE 56.50-55(b)(1).—Bilge Pumps Required for Nonself-Propelled Vessels

Type of vessel	Waters navigated	Power pumps <sup>1</sup>	Hand pumps
* * * * *	* * * * *	* * * * *	* * * * *
Mobile offshore drilling units.....	All waters.....	2	None

14. By revising § 56.50-55(a)(3) and by adding a new § 56.50-55 (a)(6), (b)(3), and (e)(4) to read as follows:

§ 56.50-55 Bilge pumps.

(a) \* \* \*

(3) One of the required power bilge pumps may be attached to the propelling engine. For vessels with more than one hull, one of the required bilge pumps in each hull may be attached to a propelling engine.

(6) Each hull of a vessel with more than one hull, such as a catamaran, must meet Table 56.50-55(a).

(b) \* \* \*

(3) Each hull of a vessel with more than one hull, such as a catamaran, must meet Table 56.50-55(b).

(4) Each hull of a vessel with more than one hull must have at least two

means for pumping the bilges in each hull. No multi-hulled vessel may operate unless one of these means is available to pump each bilge.

\* \* \* \* \*

15. By adding a new § 56.50-90(d) to read as follows:

§ 56.50-90 Sounding devices.

\* \* \* \* \*

(d) On mobile offshore drilling units where installation of sounding pipes may not be practicable for some tanks, alternate means of determining liquid level may be used if approved by the Commandant.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

16. By adding a new § 58.03-35 to read as follows:

§ 58.03-35 American Petroleum Institute (API).

The standards of the American Petroleum Institute (API)<sup>1</sup> that are referred to in this part are hereby adopted.

17. By adding a new § 58.10-10 (c) and (d) to read as follows:

§ 58.10-10 Diesel engine installations.

(c) A diesel engine air intake on a mobile offshore drilling unit must not be in a classified location.<sup>1</sup>

(d) A diesel engine exhaust on a mobile offshore drilling unit must not discharge into a classified location.<sup>1</sup>

18. By adding a new § 58.10-15(c)(4) and revising § 58.10-15(d) to read as follows:

§ 58.10-15 Gas turbine installations.

(c) \* \* \*

(4) A gas turbine exhaust on a mobile offshore drilling unit must not discharge in a classified location.<sup>1</sup>

(d) *Air inlets:* Air inlets must be designed as follows:

(1) Each air inlet must have means to protect the safety of life and to prevent the entrance of harmful foreign material, including water, into the system.

(2) A gas turbine air inlet must not be in a classified location.<sup>1</sup>

19. By adding a new Subpart 58.60 to read as follows:

**Subpart 58.60—Industrial Systems and Components on Mobile Offshore Drilling Units (MODU)**

- Sec.  
 58.60-1 Applicability.  
 58.60-2 Alternatives and substitutions.  
 58.60-3 Pressure vessel.  
 58.60-5 Industrial systems: locations.  
 58.60-7 Industrial systems: piping.  
 58.60-9 Industrial systems: design.  
 58.60-11 Analyses, plans, diagrams and specification: submission.  
 58.60-13 Inspection.

§ 58.60-1 Applicability.

This subpart applies to the following industrial systems on board a mobile offshore drilling unit (MODU):

- (a) Cementing systems.  
 (b) Circulation systems, including—  
 (1) Pipes and pumps for mud;

<sup>1</sup>See § 50.15-20(a)(13) for the address of API.

<sup>1</sup>Sections 108.171 to 108.175 of this Chapter define classified locations for mobile offshore drilling units.

<sup>1</sup>Sections 108.171 to 108.175 of this Chapter define classified locations for mobile offshore drilling units.

- (2) Shale shakers;  
 (3) Desanders; and  
 (4) Degassers.  
 (c) Blow out preventor control systems.  
 (d) Riser and guideline tensioning systems.  
 (e) Motion compensation systems.  
 (f) Bulk material storage and handling systems.  
 (g) Other pressurized systems designed for the MODU's industrial operations.

§ 58.60-2 Alternatives and substitutions.

(a) The Coast Guard may accept substitutes for fittings, material, apparatus, equipment, arrangements, calculations, and tests required in this Subpart if the substitute provides an equivalent level of safety.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, apparatus, arrangement, or test is unreasonable or impracticable, the Commandant may permit the use of alternate equipment, apparatus, arrangement, or test to such an extent and upon such condition as will insure, to his satisfaction, a degree of safety consistent with the minimum standards set forth in this subpart.

§ 58.60-3 Pressure vessel.

A pressure vessel that is a component in an industrial system under this subpart must meet § 54.01-16.

§ 58.60-5 Industrial systems: locations.

An industrial system under this subpart must not be in a space that is—

- (a) Concealed; or  
 (b) Inaccessible to industrial personnel.

§ 58.60-7 Industrial systems: piping.

The piping for industrial systems under this subpart must meet ANSI B31.3 (1977), with June 1978 addenda, except that blow out preventor control systems must also meet API RP 53, *Recommended Practice for Blowout Protection Equipment Systems*, (1976).

§ 58.60-9 Industrial systems: design.

Each system under this subpart must be designed and analyzed in accordance with the principles of API RP 14C, *Analysis, Design, Installation and Testing of Basic Surface Safety Systems on Offshore Production Platforms*, (1978).

§ 58.60-11 Analyses, plans, diagrams and specifications: submission.

(a) Each industrial system must be analyzed by a registered professional engineer to certify that the system has been designed in accordance with applicable standards.

(b) The certification must—

(1) Appear on all diagrams and analyses; and

(2) Be submitted under § 50.20-5 of this chapter.

(c) Standards or specifications for non-pressurized, mechanical or structural systems, and components such as derricks, drawworks, and rotary tables which comply with standards or specifications not referenced in this subchapter must be referenced on the plans or in the specifications of the unit.

§ 58.60-13 Inspection.

An industrial system is accepted by the Coast Guard if the inspector finds—

- (a) The system meets this subpart;  
 (b) There are guards, shields, insulation or similar devices for protection of personnel; and  
 (c) The system is not manifestly unsafe.

**PART 61—PERIODIC TESTS AND INSPECTIONS**

20. By revising § 61.10-1(a) to read as follows:

§ 61.10-1 Scope.

(a) All pressure vessels aboard ships, mobile offshore drilling units, and barges are subject to periodic inspection.

21. By revising § 61.10-5(b) and (h)(1) to read as follows:

§ 61.10-5 Periodic inspections.

(b) *Internal and external examination and tests.* Pressure vessels that required initial shop inspection and pressure vessels that are accepted under § 54.01-16 which are fitted with manholes or other inspection openings, so they can be satisfactorily examined internally, must be opened biennially at the regular inspection for certification and thoroughly examined internally and externally. Such pressure vessels are not required to be hydrostatically tested unless defects are found, which in the marine inspector's opinion, may impair the safety of the pressure vessel. Where such defects are found, a hydrostatic test must be applied at a pressure equal to 1¼ times the maximum allowable working pressure.

(h) *Pneumatic tests.* (1) Pressure vessels which have been pneumatically tested during shop inspection must be thoroughly examined internally and externally biennially at the regular inspection for certification except in

those instances where the inspection interval is prescribed otherwise, by the specific regulations applicable to the product carried, in Subchapter D (Tank Vessels), Subchapter I (Cargo and Miscellaneous Vessels), Subchapter IA (Mobile Offshore Drilling Units), or Subchapter N (Dangerous Cargoes) of this Chapter. For those tanks whose design precludes a thorough internal or external examination, the thickness must be determined by a nondestructive method acceptable to the Officer in Charge, Marine Inspection.

22. By adding a new § 61.20-15(b)(4) to read as follows:

§ 61.20-15 Tailshaft survey.

- (b) \* \* \*
- (4) A mobile offshore drilling unit that has a tailshaft is not subject to specified periods for drawing the tailshaft if the tailshaft is—
- (i) Drawn for inspection during regularly scheduled drydocking; or
- (ii) Regularly inspected in a manner acceptable to the Commandant.

23. By adding a new Subchapter I-A to read as follows:

**SUBCHAPTER I-A—MOBILE OFFSHORE DRILLING UNITS**

**PART 107—INSPECTION AND CERTIFICATION**

**Subpart A—General**

- Sec.
- 107.01 Purpose of subchapter.
- 107.111 Definitions.
- 107.113 Industrial personnel.
- 107.115 Incorporation by reference.
- 107.117 Coast Guard addresses.

**Subpart B—Inspection and Certification**

- 107.201 Purpose.
- 107.211 Original Certificate of Inspection.
- 107.215 Biennial inspection for certification.
- 107.219 Permit to proceed to another port for repairs.
- 107.223 Temporary Certificate of Inspection: period in effect.
- 107.227 Certificate of Inspection Amendment.
- 107.231 Inspection for certification.
- 107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers and fixed fire-extinguishing systems.
- 107.239 Weight testing of lifeboats, lifeboat launching systems, and davit launched life raft systems.
- 107.243 Testing of winch electrical control apparatus for lifeboats.
- 107.251 Testing of the fire main.

- 107.257 Testing of fire hoses.
- 107.258 Crane certification.
- 107.259 Crane inspection and testing.
- 107.260 Rated load test for cranes.
- 107.261 Drydock or special examination.
- 107.265 Special examination in lieu of drydocking for column stabilized units or surface type units when specifically approved by the Commandant.
- 107.267 Special examination in lieu of drydocking for self-elevating units.
- 107.269 Reinspection.
- 107.271 Inspection: alterations.
- 107.275 Other inspections.
- 107.279 Certificate of Inspection: failure to meet requirements.

**Subpart C—Plan Approval**

- 107.301 Purpose.
- 107.305 Plans and information.
- 107.309 Crane plans and information.
- 107.317 Addresses for submittal of plans, specifications, and calculations.

**Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960**

- 107.401 Purpose and definition.
- 107.405 Safety Equipment Certificate.
- 107.409 Safety Construction Certificate.
- 107.413 Exemption certificate.

AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

**Subpart A—General**

- § 107.01 Purpose of subchapter.

This subchapter prescribes rules for the design, construction, equipment, inspection and operation of mobile offshore drilling units operating under the U.S. flag.

- § 107.111 Definitions.

As used in this subchapter:  
"Approved" means approved by the Commandant.

"Column stabilized unit" means a unit with the main deck connected to the underwater hull of footings by columns or caissons.

"Commandant" means the Commandant of the Coast Guard or his authorized representative.

"District Commander" means an officer of the Coast Guard who commands a Coast Guard District described in 33 CFR Part 3 or his authorized representative.

"Headquarters" means Office of the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

"Industrial systems and components" means any machinery or equipment except diving systems on board a

mobile offshore drilling unit for use in the industrial function of the unit.

"International service" means operation of a mobile offshore drilling unit on an international voyage or in waters under the jurisdiction of foreign nations or the United Nations.

"Marine inspector" means any person designated by an Officer in Charge, Marine Inspection, as a marine inspector.

"Master" or "Person in charge" means a person designated under § 109.107.

"Mobile offshore drilling unit" or "unit" means a vessel, except a public vessel of the United States, capable of engaging in drilling operations for the exploration or exploitation of subsea resources that is—

- (1) Seagoing and 300 or more gross tons and self-propelled by motor;
- (2) Seagoing and 100 or more gross tons and non-self-propelled; or
- (3) More than 65 feet in length and propelled by steam.

"Non-self-propelled unit" means a unit which is not self-propelled.

"Officer in Charge, Marine Inspection" means an officer of the Coast Guard who commands a Marine Inspection Zone described in 33 CFR Part 3 or his authorized representative.

"Self-elevating unit" means a unit with moveable legs capable of raising its hull above the surface of the sea.

"Self-propelled unit" means a unit that has propulsion machinery that provides for independent underway navigation.

"Surface type unit" means a unit with a ship shape or barge type displacement hull of single or multiple hull construction intended for operation in the floating condition.

"Watertight" means designed and constructed to withstand a static head of water without any leakage, except that "watertight equipment" means enclosed equipment so constructed that a stream of water from a hose (not less than 1 inch in diameter) under head of about 35 feet from a distance of about 10 feet, and for a period of 5 minutes, can be played on the apparatus without leakage.

"Weathertight" means that water will not penetrate into the unit in any sea condition, except that "weathertight equipment" means equipment so constructed or protected that exposure to a beating rain will not result in the entrance of water.

- § 107.113 Industrial personnel.

Industrial personnel are all persons, exclusive of the required crew as set forth in the Certificate of Inspection, carried on board a mobile offshore drilling unit for the sole purpose of carrying out the industrial business or functions of the unit.

§ 107.115 Incorporation by reference.

(a) The standards referred to in this subchapter are incorporated by reference. The incorporation by reference was approved by the Director of the Federal Register under the provisions of 1 CFR Part 51 on November 7, 1978.

(b) The standards are on file in the FEDERAL REGISTER library and are available from the appropriate organizations whose addresses are listed below:

(1) American Bureau of Shipping, 45 Broad Street, New York, New York 10004.

(2) American National Standards Institute Standards (ANSIS), American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

(3) American Petroleum Institute, 2101 L Street, N.W., Washington, D.C. 20037.

(4) International Cargo Gear Bureau, 17 Battery Place, New York, New York 10004.

(5) National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

(6) Underwriters Laboratory, 333 Pfingsten Road, Northbrook, Illinois 60062.

§ 107.117 Coast Guard addresses.

When approval of the Commandant is required under this Subchapter, the following addresses are to be used:

(a) For approval by Commandant (G-MVI)—

Commandant (G-MVI/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) For approval by Commandant (G-MMT)—

Commandant (G-MMT/82), U.S. Coast Guard, Washington, D.C. 20590.

**Subpart B—Inspection and Certification**

§ 107.201 Purpose.

This subpart prescribes rules for the—

(a) Original inspection and issuance of an original Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(b) Biennial inspection for certification and renewal of a Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(c) Reinspection required by 46 U.S.C. 435;

(d) Inspection after an accident required by 46 U.S.C. 435; and

(e) Inspection of repairs or alterations, or both, required by 46 U.S.C. 435;

(f) Amendments to Certificates of Inspection;

(g) Issuance of Temporary Certificate of Inspection; and

(h) Issuance of Permit to Proceed to Another Port for Repairs.

§ 107.211 Original Certificate of Inspection.

(a) The owner or builder of a unit applies for an inspection for an original

Certificate of Inspection by submitting before construction is started—

(1) a completed Application for Inspection of U.S. Vessel, Form CG-3752, to the Officer in Charge, Marine Inspection, of the marine inspection zone in which the unit is to be constructed; and

(2) plans and information indicating the proposed arrangement and construction of the unit to the Coast Guard in accordance with Subpart C of this Part.

(b) An original Certificate of Inspection is issued if the Coast Guard finds, during the inspections conducted while the unit is being constructed, that a unit contracted for on or after January 3, 1979 meets § 107.231.

(c) An original Certificate of Inspection is issued if the Coast Guard finds that an uncertificated unit contracted for before January 3, 1979 meets the applicable requirements of this Subchapter as specified in the Navigation and Vessel Inspection Circular, "Inspection and Certification of Existing Mobile Offshore Drilling Units" (Appendix A). Existing structure, arrangements, materials, equipment, and facilities will be considered satisfactory so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Repairs and minor alterations may be made to the same standards as originally used. Major alterations and conversions shall be in compliance with the provisions of each subpart of this part to the satisfaction of the Officer in Charge, Marine Inspection.

(d) A Certificate of Inspection expires 24 months after the date of issue.

§ 107.215 Biennial inspection for certification.

(a) The master, owner, or agent of a certificated unit may apply for a biennial inspection for the renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel, Form CG-3752, to the Officer in Charge, Marine Inspection, in or nearest to the port where the inspection will be made.

(b) The master, owner, or agent of a certificated unit operating in international service may apply for renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel Form CG-3752, to the appropriate Officer in Charge, Marine Inspection, at least 60 days before the expiration date that appears on the unit's unexpired Certificate of Inspection.

(c) A Certificate of Inspection is renewed if the Coast Guard finds, during the biennial inspection, that—

(1) A unit contracted for on or after January 3, 1979 meets the requirements of this Subchapter; or

(2) A unit contracted for before January 3 1979, and issued a Certificate of Inspection under Subchapter I of this Chapter, continues to meet the requirements of that subchapter and meets the applicable requirements of this subchapter as specified in Navigation and Vessel Inspection Circular, "Inspection and Certification of Existing Mobile Offshore Drilling Units" (Appendix A).

§ 107.219 Permit to proceed to another port for repairs.

(a) If a unit fails to meet the requirements in § 107.231, and the Coast Guard withholds reissuance of a Certificate of Inspection, or suspends an unexpired Certificate of Inspection, as described in § 107.279, a Permit to Proceed to Another Port for Repairs (Form CG-948) is issued by the Coast Guard if—

(1) The owner, master, person in charge, or agent makes a written request for a permit to the Officer in Charge, Marine Inspection, that includes—

(i) The reason the permit is requested;

(ii) The port in which the repairs are to be made; and

(iii) The period of time for the voyage;

(2) The Officer in Charge, Marine Inspection finds that the unit is seaworthy for the voyage.

(b) A Permit to Proceed to Another Port for Repairs states the conditions under which it was issued and is in force for the period of the voyage to the port in which the repairs are to be made.

§ 107.223 Temporary Certificate of Inspection: period in effect.

A Temporary Certificate of Inspection, issued under 46 U.S.C. 399, is effective until a Certificate of Inspection is issued to the unit.

§ 107.227 Certificate of Inspection Amendment.

The Coast Guard issues a Certificate of Inspection Amendment, Form CG-858, to a certificated unit if a requirement for equipment and data listed on the unexpired Certificate of Inspection is changed.

§ 107.231 Inspection for certification.

A unit is issued a Certificate of Inspection under § 107.211 or § 107.215(c) if the inspector finds the following:

(a) The unit and its equipment comply with—

(1) Part 108 of this subchapter;

(2) Subchapter J of this chapter, Electrical Engineering;<sup>1</sup>

<sup>1</sup>Requirements for industrial systems and components are in Subpart 111.94 of this Chapter.

(3) Subchapter F of this chapter, Marine Engineering;<sup>2</sup>

(4) Subchapter E of this chapter, Load Lines;<sup>3</sup>

(5) Part 64 or Part 98 of this chapter, or both, if the unit carries marine portable tanks or portable tanks;

(6) The vessel design and equipment requirements of the oil pollution regulations (33 CFR Part 155, Subpart B);

(7) The Rules of the Road requirements for the waters in which the unit navigates, contained in—

(i) 33 U.S.C. Chapters 3, 4, 5, or 21; and

(ii) 33 CFR Parts 80, 85, 9r 86.

#### LIFESAIVING EQUIPMENT

(b) Each lifeboat and its equipment are serviceable.

(c) Each lifeboat, each lifeboat launching system, and each davit launched liferaft launching system passes the test in § 107.239.

(d) Each winch electrical control apparatus for lifeboats meets the testing requirements in § 107.243.

(e) Each inflatable liferaft is serviceable and meets the servicing requirement in § 160.051-6 of this chapter.

(f) Each hydraulic release for inflatable liferafts meets the periodic servicing and testing requirements in § 160.062-4 of this chapter.

(g) Each life preserver is serviceable.

(h) A life preserver that is cleaned or repaired meets Subpart 160.006 of this chapter.

(i) Each buoyant work vest is serviceable.

#### FIRE FIGHTING EQUIPMENT

(j) Each hand portable fire extinguisher and each semi-portable fire extinguisher is inspected, and serviced if required, in accordance with § 107.235(a).

(k) Each fixed fire-extinguishing system is inspected, and serviced if required, in accordance with § 107.235(b).

(l) Each fire main system meets the testing requirements in § 107.251.

(m) Each fire hose meets the testing requirements in § 107.257.

#### CRANES

(n) The rated load test for cranes in § 107.260 is met.

(o) Each crane is inspected and tested in accordance with § 107.258.

#### MISCELLANEOUS

(p) Each watertight door is operative.

<sup>2</sup>Requirements for industrial systems and components are in Subpart 58.60 of this Chapter.

<sup>3</sup>Requirements for load lines are not applicable to bottom supported units when they are being supported by, or being lowered to or raised from the seabed.

(q) Each valve with a remote control is operative.

(r) Each means of escape on the unit is safe for the intended service.

(s) There is not an accumulation of oil which might create a fire hazard on tank tops, decks, in drip pans, machinery spaces, and pumproom bilges.

(t) Each accommodation space is sanitary.

(u) The unit meet the drydocking requirement in § 107.261 or the special examination in § 107.265.

(v) The unit meets the equipment and data information requirements on its certificate of inspection.

(w) Each record in Subpart D of part 109 is maintained as prescribed.

(x) A unit that engages on international voyages has on board the appropriate certificates issued under 47 U.S.C. 360:

(1) Safety Radiotelegraph Certificate or Safety Radiotelephony Certificate.

(2) Exemption Certificate, if an exemption has been granted.

#### INSTALLATION TESTS

(y) Each lifeboat, lifeboat davit, lifeboat winch, liferaft davit, and liferaft

winch meets the installation tests in § 94.35-5(b) of this chapter.

(z) Each davit launched liferaft meets the installation test in § 95.37-5 of this chapter.

(aa) Piping for each carbon dioxide extinguishing system meets the installation test in § 108.449 of this chapter.

(bb) Each sliding watertight door meets the installation tests in § 163.001-6(b) of this chapter.

#### OTHER TESTS AND INSPECTIONS

(cc) The unit and its equipment meet any other test or inspection deemed necessary by the inspector to determine if they are suitable for the service in which they are to be employed.

§ 107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers and fixed fire-extinguishing systems.

(a) Each hand portable fire extinguisher and each semi-portable fire extinguisher on board the unit must be serviced as setout in Table 107.235 and examined for excessive corrosion and general condition.

TABLE 107.235

Type extinguisher	Test and servicing required
Soda Acid .....	Discharge, clean hose and inside of extinguisher thoroughly. Recharge.
Foam .....	Discharge, clean hose and inside of extinguisher thoroughly. Recharge.
Pump Tank (water or antifreeze) .....	Discharge, clean hose and inside of extinguisher thoroughly. Recharge with clean water or antifreeze.
Cartridge operated (water, antifreeze or loaded stream) .....	Examine pressure cartridge and replace if end is punctured or if cartridge is otherwise determined to have leaked or to be in unsuitable condition. Remove liquid, clean hose and inside of extinguisher thoroughly. Recharge with clean water, solution, or antifreeze. Insert charged cartridge.
Carbon Dioxide .....	Weigh cylinders. Recharge if weight loss exceeds 10 percent. Inspect hose and nozzle to be sure they are clear.
Dry chemical (cartridge-operated type) .....	Examine pressure cartridge and replace if end is punctured or if cartridge is otherwise determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Be sure dry chemical is free-flowing (not caked) and chamber contains full charge.
Dry chemical (stored pressure type) .....	See that pressure gage is in operating range. If not, or if seal is broken, weigh or otherwise determine that full charge of dry chemical is in extinguisher. Recharge if pressure is low or if dry chemical is needed.

(b) Each fixed fire-extinguishing system must be examined for excessive corrosion and general condition and be serviced by—

(1) Recharging the cylinders of each carbon dioxide system, if the weight loss is more than 10% of the weight of the charge;

(2) Testing each foam system, except premix systems by—

(i) Discharging foam for approxi-

mately 15 seconds from a nozzle designated by the marine inspector;

(ii) Discharging water from all other lines and nozzles; and

(iii) Taking a sample of the foam liquid and submitting it to the manufacturer or his authorized representative for determination of its specific gravity, PH, percentage of water dilution, and solid content, and certification as a suitable firefighting foam;

(3) Removing the pressure cartridge of each premix aqueous film forming foam system and replacing the cartridge if the seal is punctured, sampling the premix solution in accordance with the manufacturer's instructions, and replacing cylinders that are discharged.

NOTE.—All carbon dioxide cylinders and discharge hoses of semi-portable carbon dioxide systems must be tested and marked in accordance with §147.04-1 of this Chapter.

§ 107.239 Weight testing of lifeboats, lifeboat launching systems, and davit launched liferaft systems.

(a) Each lifeboat must be loaded to the deadweight equivalent of the allowed capacity, lowered, stopped using the winch brake during descent, lowered into the water by releasing the winch brake, and released from the falls;

(b) The davit and winch for each davit launched liferaft must be tested by suspending a test weight from the releasing hook and lowering the weight to near the water;

(c) The automatic disengaging device for each davit launched liferaft must be tested by a spring weight to assure the applied force at which the hook will release is within the design specification; and

(d) The launching equipment for each lifeboat or davit launched liferaft must be tested with a weight equal to the weight of the lifeboat or raft plus the full complement of persons and equipment.

NOTE.—In making these tests, deadweight is equivalent to 165 pounds for each person in the allowed capacity.

§ 107.243 Testing of winch electrical control apparatus for lifeboats.

Each winch electrical control apparatus for lifeboats must be opened and inspected. When the inspection is completed the control apparatus must be operated.

107.251 Testing of the fire main.

Each fire main system must be opened and the pressure checked at—

- (a) The most remote outlet; and
- (b) The highest outlet.

§ 107.257 Testing of fire hose.

Each fire hose must be subjected to a test pressure equivalent to the maximum pressure to which it may be subjected during operation. However, each fire hose must be subjected to a pressure of at least 100 p.s.i.

§ 107.258 Crane certification.

(a) The Coast Guard may accept current certificates issued by approved organizations as evidence of condition and suitability of cranes. The following organizations are approved by the

Coast Guard as crane certifying authorities:

(1) American Bureau of Shipping, 45 Broad St., New York, N.Y., 10004.

(2) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, N.Y. 10004.

(b) Crane certification must be based upon—

(1) A review of plans submitted under § 107.309; and

(2) The continuing program of tests and inspections in § 107.259.

(c) Each load test and inspection by the certifying authority must be recorded in the unit's Crane Record Book required in § 109.437.

§ 107.259 Crane inspection, and testing.

(a) Each crane must be inspected and tested in accordance with Section 3 of the American Petroleum Institute (A.P.I.) *Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (October 1972) with supplement 1, except that the rated load test must be performed in accordance with § 107.260.

(b) The tests are witnessed and the inspections are conducted by—

(1) A Coast Guard marine inspector; or

(2) The American Bureau of Shipping (A.B.S.), or the International Cargo Gear Bureau, Inc. (I.C.G.B.) for cranes under certification by these organizations.

(c) If the tests and inspections are conducted by the A.B.S. or the I.C.G.B., the surveyor shall certify that the tests and inspections were conducted in accordance with the A.P.I. specification; or modified by § 107.260.

§ 107.260 Rated load test for cranes.

(a) To meet the requirements in § 107.231(n), each crane must meet the following rated load test at both the maximum and minimum boom angles usually employed in material transfers over the side of the unit:

Rated load of assembled gear	Proof load
Less than or equal to 20 tons.	25 pct in excess.
Greater than 20 tons but less than or equal to 50 tons.	5 tons in excess.
Greater than 50 tons .....	10 pct in excess.

(b) The weight of the hook, hook blocks, slings, rib, and other rigging, except the hoist rope, must be considered part of the load for the rated load test.

(c) The rated load test must be performed—

- (1) When the crane is installed;
- (2) Each 48 months; and

(3) After repairs or alterations to any structural component of the crane.

§ 107.261 Drydock or special examination.

(a) Except as provided in paragraphs (b), (c), and (d), each unit must be drydocked in the presence of a Coast Guard inspector at least once during each 24 month period after it is issued a Certificate of Inspection.

(b) If a unit is column-stabilized, it may be specially examined in lieu of drydocking in accordance with § 107.265 in the presence of a Coast Guard inspector.

(c) If a unit is self-elevating, it may be specially examined in lieu of drydocking in accordance with § 107.267 in the presence of a Coast Guard inspector.

(d) If a unit is a surface type, it may be specially examined in lieu of drydocking in accordance with § 107.265 in the presence of a Coast Guard inspector if the examination is specifically approved by the Commandant.

(e) The master, person in charge, owner, or agent of a certificated unit must notify the appropriate Officer in Charge, Marine Inspection before the unit is drydocked, or specially examined.

(f) The master, person in charge, owner, or agent of a certificated unit operating in international service must notify the appropriate Officer in Charge, Marine Inspection at least 60 days before the unit is drydocked or specially examined under § 107.265 or § 107.267.

§ 107.265 Special examination in lieu of drydocking for column stabilized units or surface type units when specifically approved by the Commandant.

(a) A column stabilized unit, or surface type unit when approved by the Commandant, must be specially examined in accordance with a plan—

- (1) Submitted in accordance with paragraph (b); and
- (2) Accepted by the Commandant (G-MVI).

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Coast Guard that provides the methods used to determine the condition of the hull and that contains the following information:

- (1) The planned location where the unit is to be examined.
- (2) The draft at which the unit is to be examined.
- (3) The names of the diver or diving company selected for the examination.
- (4) The method of visual presentation for the examination.
- (5) The method used to clean the underwater portion of the hull.

(6) The method and location of gauging the underwater portion of the hull.

(7) The number of underwater hull fittings and number of compartments to be opened.

(8) The underwater high stress areas and the welds in those areas to be examined.

**§ 107.267 Special examination in lieu of drydocking for self-elevating units.**

(a) A self-elevating unit must be specially examined in accordance with a plan—

(1) Submitted in accordance with paragraph (b); and

(2) Approved by the Commandant (G-MVI).

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Commandant (G-MVI) that provides for—

(1) Examination of the unit's hull while it is in the elevated position; and

(2) Examination of the supporting mat, spud cans, or footings while the unit is afloat.

(c) The plan required in paragraph (b) must contain the following information:

(1) The planned location where the unit is to be examined.

(2) The methods to be used to conduct the hull examination.

(3) The method of visual presentation for examination of the underwater components.

(4) The methods of determining the condition of the underwater components.

(5) The underwater high stress areas and the welds in those areas that are to be examined.

(6) The names of the diver or diving company selected for the examination.

**§ 107.269 Reinspection.**

The Coast Guard reinspects a unit within the period between the 10th and 14th months after the month in which the certificate is issued to determine if the unit meets the requirements in § 107.231, except § 107.231(y), (z), (aa), and (bb).

**§ 107.271 Inspection: alterations.**

After plans are approved for alterations affecting the safety of the unit the Coast Guard conducts inspections of the affected—

(a) Hull;

(b) Machinery; or

(c) Equipment.

**§ 107.275 Other inspections.**

When the Coast Guard receives the report required in § 109.411 or § 109.425, the Coast Guard conducts the following inspections of a unit to determine if the unit meets the re-

quirements under which it was issued its original Certificate of Inspection:

(a) An inspection after an accident.

(b) An inspection after a defect is found that affects—

(1) The seaworthiness of the unit; or

(2) The safety or efficiency of a life-saving device, or firefighting device.

(c) An inspection of repairs made because of an accident or a defect.

**§ 107.279 Certificate of Inspection: failure to meet requirements.**

If a unit fails to meet the requirements in § 107.231, the Coast Guard may—

(a) Withhold issuance of an original Certificate of Inspection after an original inspection for certification, until the unit meets the requirements in § 107.231;

(b) Withhold renewal of a Certificate of Inspection after a biennial inspection for certification until the unit meets the requirements in § 107.231, except § 107.231(y), (z), (aa), and (bb);

(c) Suspend an unexpired Certificate of Inspection after a reinspection, until the unit meets the requirements in § 107.231, except § 107.231(y), (z), (aa), and (bb);

(d) Revoke an unexpired Certificate of Inspection after a reinspection if the unit operates without complying with Coast Guard orders to correct unlawful conditions;

(e) Revoke or suspend an unexpired Certificate of Inspection;

(f) Withhold issuance of a safety equipment certificate;

(g) Withhold renewal of safety equipment certificate;

(h) Suspend an unexpired safety equipment certificate;

(i) Revoke an unexpired safety equipment certificate; and

(j) Withhold, suspend, or revoke an exemption certificate.

**Subpart C—Plan Approval**

**§ 107.301 Purpose.**

This subpart prescribes procedures for submitting plans and specifications for plan approval and describes the information that must be submitted.

**§ 107.305 Plans and information.**

Each applicant for approval of plans must submit three copies of each of the following described plans, specifications, and structural calculations concerning the construction, arrangement, required equipment, and safety features of the unit:

**GENERAL**

(a) Specifications.

(b) General arrangement plan of decks, holds, inner bottoms, etc. including inboard and outboard profile.

**HULL STRUCTURE<sup>1</sup>**

(c) \*Inner bottom plating and framing.

(d) \*Midship section.

(e) \*Shell plating and framing.

(f) \*Stern, stern frame, and rudder.

(g) \*Structural deck plans for strength decks.

(h) \*Pillars and girders.

(i) \*Watertight and oiltight bulkheads.

(j) \*Foundations for main machinery and boilers.

(k) \*Arrangement of ports, doors, and airports in shell plating.

(l) \*Hatch coamings and covers in weather and watertight decks.

(m) \*Details of watertight doors and operating gear.

(n) \*Scuppers and drains penetrating shell plating.

(o) Arrangement of cranes.

(p) For self-elevating units, column stabilized units, and units with special hull configuration, structural calculations and plans showing special structural features.

**STABILITY**

(q) Lines.

(r) Curves of form and cross curves of stability.

(s) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces.

(t) Tank sounding tables.

(u) Draft mark locations.

(u-1) Intact stability and damage stability data.

**FIRE CONTROL**

(v) General arrangement plans showing, for each deck, the control stations, fire sections enclosed by fire resisting bulkheads, alarm and extinguishing systems, fire extinguishers, means of access to compartments and other decks, and the ventilation system, including location of ventilation shut downs, positions of dampers, and the numbers identifying each system.

(w) Ventilation diagram, including dampers and other fire control features.

(x) Details of fire alarm systems.

(y) Details of fixed fire extinguishing systems.

**MARINE ENGINEERING**

(z) Plans required for marine engineering equipment and systems by Subchapter F of this chapter.

<sup>1</sup>The asterisk (\*) indicates items that are approved by the American Bureau of Shipping for vessels classed by it. Items approved by the American Bureau of Shipping are generally accepted as satisfactory unless the law or Coast Guard regulations contain requirements that are not covered by the American Bureau of Shipping.

ELECTRICAL ENGINEERING

(aa) Plans required for electrical engineering equipment and systems by Subchapter J of this chapter.

LIFE SAVING EQUIPMENT

(bb) The location and arrangement of each life saving system including each embarkation deck, showing each overboard discharge, and projections in the way of launching lifeboats and liferafts.

(cc) The weight of each lifeboat when fully equipped and loaded.

(dd) Working loads of davits and winches.

(ee) Types and sizes of falls.

(ff) Manufacturer's name and identification of each item of equipment.

PERSONNEL ACCOMMODATIONS

(gg) Arrangement plans showing each accommodation space, ventilation, and means of escape.

CONSTRUCTION PORTFOLIO<sup>2</sup>

(hh) A construction portfolio must be prepared for each unit and must be approved by the Coast Guard. The portfolio must document the location and extent of application of different grades and strengths of materials and include a description of the materials and welding procedures employed and any other relevant construction information. The portfolio must contain the following:

(1) Structural plans showing areas incorporating different grades and strengths of materials. A simplified plan may be included in the portfolio if it adequately defines the different areas of application.

(2) A list of different grades or strengths of material that conform to American Bureau of Shipping (ABS) or American Society of Testing and Materials (ASTM) specifications. For materials that do not conform to ABS or ASTM specifications, complete specifications, including chemical and physical properties, special testing and any heat treatment.

(3) Each approved weld procedure for the fabrication of each structure using different grades or strengths of material and each approved weld test procedure.

(4) Information, restrictions or prohibitions regarding repairs or modifications.

OPERATING MANUAL

(ii) The operating manual required in § 109.121.

§ 107.309 Crane plans and information.

(a) Three copies of each of the following must be submitted:

(1) Stress and arrangement diagrams, bill of materials, and support-

<sup>2</sup>This portfolio may be included in the operating manual required in § 109.121.

ing calculations for all structural components listed in API Spec. 2C, Second Edition, February 1972 (with supplement 2).

(2) Drawings of foundations and substructures with supporting calculations for support and stability of each crane under its rated load.

(3) Plans showing the installation of the safety features required in § 108.601.

(4) Drawings of the means provided to stop motion and set brakes during a power failure.

NOTE.—These plans must be submitted to the Coast Guard, if the crane is not certified. If the crane is to be certified, four copies must be sent to the American Bureau of Shipping or the International Cargo Gear Bureau.

(b) In addition to the plans and information required in paragraph (a), the following plans and information must be submitted to the Coast Guard only:

(1) One line diagrams of the electrical power circuits of the electric power crane overload protection required in Subpart 111.50 of this chapter.

(2) Diagrams of the hydraulic or pneumatic power and control systems, as required by Subpart 58.30-40 or 58.30-50 of this Chapter, as applicable.

§ 107.317 Addresses for submittal of plans, specifications, and calculations.

The copies of each plan, specification, and calculation required under § 107.305 and § 107.309 must be submitted to one of the following as applicable:

(a) The Officer in Charge, Marine Inspection, in the zone in which the unit is to be built or altered.

(b) One of the following field technical offices:

(1) Commander(mmt), 3rd Coast Guard District, Governors Island, New York, NY 10004, for the geographical area covered by the 1st and 3rd Coast Guard Districts.

(2) Commander(mmt), 5th Coast Guard District, Federal Bldg., 431 Crawford St., Portsmouth, VA 23705.

(3) Commander(mmt), 8th Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, for the geographical area covered by the 2nd, 7th, and 8th Coast Guard District.

(4) Commander(mmt), 9th Coast Guard District, 1240 East 9th St., Cleveland, OH 44199.

(5) Commander(mmt), 12th Coast Guard District, 630 Sansome St., San Francisco, CA 94126, for the geographical area covered by the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

(c) The American Bureau of Shipping, (ABS) 45 Broad St., New York, NY 10004.

NOTE.—For classed vessels, the American Bureau of Shipping will, upon request by the submitter, arrange to forward the plans indicated with an asterisk in § 107.305 to the Coast Guard indicating ABS's action thereon.

(d) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, NY 10004.

Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960

§ 107.401 Purpose and definition.

(a) The International Convention for Safety of Life at Sea, 1960, requires one or more of the certificates described in this subpart to be carried on self-propelled vessels of 500 gross tons or over engaged in international voyages. This subpart prescribes rules for the issuance of these certificates to mobile offshore drilling units.

(b) "International voyage" has the same meaning as stated in Regulation 2(d) of Part A, Chapter I in the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60), which is: "a voyage from a country to which the present Convention applies to a port outside such country, or conversely; and for this purpose every territory for the international relations of which a Contracting Government is responsible or for which the United Nations are the administering authority is regarded as a separate country." The Coast Guard has interpreted this definition to include the following:

(1) A voyage from a country to which SOLAS 60 applies, to a port outside that country or the reverse;

(2) A voyage from any territory, including the Commonwealth of Puerto Rico, the Canal Zone, all possessions of the United States, and all lands held by the United States under a protectorate or mandate, whose international relations are the responsibility of a contracting SOLAS 60 government, or which is administered by the United Nations, to a port outside that territory or the reverse;

(3) A voyage between the contiguous states of the United States and the states of Hawaii or Alaska or between the states of Hawaii and Alaska.

The Coast Guard has interpreted this definition to not include a "Great Lakes voyage" which means a voyage solely on the Great Lakes of North America and the St. Lawrence River west of a straight line drawn from Capedes Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd Meridian.

## § 107.405 Safety equipment certificate.

(a) A self propelled unit of at least 500 gross tons that engages in international voyages is issued a safety equipment certificate if the inspector issues it a certificate of inspection under § 107.211 or § 107.215 and it meets Chapter 3 of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(b) A Safety Equipment Certificate expires 24 months after the date of issue.

## § 107.409 Safety Construction Certificate.

(a) Application for a Safety Construction Certificate is made by indicating in the space provided on the Application for Inspection Form CG-3752 whether the American Bureau of Shipping or the Coast Guard is to issue the certificate.

(b) The American Bureau of Shipping or the Coast Guard may issue a self-propelled unit of at least 500 gross tons that engages on international voyages a Safety Construction Certificate if the unit meets the requirements in Regulation 12(a)(ii), Chapter I of the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(c) A Safety Construction Certificate expires 60 months after the date of issue.

(d) If a unit fails to meet the requirements in Regulation 12(a)(ii), the Coast Guard may—

(1) Suspend an unexpired Safety Construction Certificate; and

(2) Revoke an unexpired Safety Construction Certificate.

## § 107.413 Exemption certificate.

(a) An owner or operator of a unit may request an exemption from the requirements of the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) by writing to the appropriate OCMI.

(b) The Commandant (G-MVI) may exempt a self-propelled unit of at least 500 gross tons on an international voyage from any of the requirements in the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) if the unit meets the conditions of Regulation 4 of Part A, Chapter I, of SOLAS 60 which states the following:

A ship which is not normally engaged on international voyages but which, in exceptional circumstances, is required to undertake a single international voyage may be exempted by the Administration from any of the requirements of the present Regulations provided that it complies with safety requirements which are adequate in the opinion of the Administration for the

voyage which is to be undertaken by the ship.

(c) The Commandant (G-MVI) may exempt a self-propelled unit of at least 500 gross tons on an international voyage from the requirements of Chapter III (Lifesaving Appliances, & C.) of SOLAS 60 if the unit meets the conditions of Regulation 3 of Chapter III which states in part:

The Administration, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of the full requirements of this chapter (Chapter III) unreasonable or unnecessary, may to that extent exempt from the requirements of this chapter individual ships or classes of ships which, in the course of their voyage, do not go more than 20 miles from the nearest land. . . .

(d) The Commandant (G-MVI) may exempt a unit from the requirements of Chapter II (Construction) of SOLAS 60 if the unit meets the conditions of Regulation 1(c) of Part A of Chapter II of SOLAS 60 which states the following: The Administration may, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of this chapter (Chapter II) unreasonable or unnecessary, exempt from those requirements individual ships or classes of ships belonging to its country which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

(e) An Exemption Certificate is in force for the period of validity of the certificate to which it refers.

## PART 108—DESIGN AND EQUIPMENT

## Subpart A—General

- Sec.  
108.103 Equipment not required on a unit.  
108.105 Substitutes for required fittings, material, apparatus, equipment, arrangements, calculations, and tests.  
108.109 Classification society standards.

## Subpart B—Construction and Arrangement

## HULL STRUCTURE

- 108.113 Structural standards.  
108.114 Appliances for watertight and weathertight integrity.  
108.115 Sliding watertight doors.

## FIRE PROTECTION: GENERAL

- 108.123 Isolation of combustible material.  
108.127 Storage lockers for combustibles.

## STRUCTURAL FIRE PROTECTION

- 108.131 Definitions.  
108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.  
108.135 Boundary bulkheads, decks of galleys, and combustible material lockers.  
108.137 Bulkhead and deck separations of accommodation spaces.  
108.139 Boundary bulkheads and decks of a space containing emergency power.

- 108.141 Boundary bulkheads and decks between the emergency power source and service generators.  
108.143 Accommodation space.  
108.145 Hatches and tonnage openings.  
108.147 Certain paints prohibited.

## MEANS OF ESCAPE

- 108.151 Two means required.  
108.153 Location of means of escape.  
108.155 Restrictions on means of escape utilized.  
108.157 Locked doors.  
108.159 Stairways and exterior inclined ladders.  
108.160 Vertical ladders.  
108.161 Dead end corridors.  
108.165 Access to lifeboats and liferafts.  
108.167 Weather deck ladders.

## CLASSIFIED LOCATIONS

- 108.170 Definitions.  
108.171 Class I, Division 1 locations.  
108.173 Class I, Division 2 locations.  
108.175 Contiguous locations.  
108.177 Electrical equipment in classified locations.

## VENTILATION

- 108.181 Ventilation for enclosed spaces.  
108.185 Ventilation for enclosed classified locations.  
108.187 Ventilation for brush type electrical motors in classified spaces.

## ACCOMMODATION SPACES

- 108.193 Restrictions.  
108.195 Location of accommodation spaces.  
108.197 Construction of accommodation spaces.  
108.199 Arrangement of sleeping spaces.  
108.201 Size of sleeping spaces.  
108.203 Berths and lockers.  
108.205 Wash spaces; toilet spaces; and shower spaces.  
108.207 Messrooms.  
108.209 Hospital spaces.  
108.210 Hospital space not required.  
108.211 Miscellaneous accommodation spaces.  
108.213 Heating requirements.  
108.215 Insect screens.

## RAILS

- 108.217 Guardrails and bulkheads.  
108.219 Guardrails.  
108.221 Storm rails.  
108.223 Guards on exposed equipment.

## HELICOPTER FACILITIES

- 108.231 Application.  
108.233 Location and size.  
108.235 Construction.  
108.237 Fuel storage facilities.  
108.239 Fuel transfer equipment.  
108.241 Visual aids.

## Subpart C—Stability

- 108.301 Stability: definitions.  
108.303 Stability requirements: general.  
108.305 Intact stability requirements.  
108.309 Stability on bottom.  
108.311 Calculation of wind heeling moment [Hm].  
108.313 Submission of intact stability data.  
108.315 Damage stability requirements.  
108.317 General damage stability assumptions.  
108.319 Compartments assumed flooded: general.

- 108.321 Flooding on self-elevating and surface type units.
- 108.323 Flooding on column stabilized units.
- 108.325 Permeabilities.
- 108.329 Submission of damage stability data and calculations.
- 108.335 Stability test.
- 108.337 Plans and information required at the stability test.
- 108.339 Stability test preparations.
- 108.341 Stability test deviation.
- 108.343 Stability: alterations.

**Subpart D—Fire Extinguishing Systems**

- 108.401 Fire main system.
- 108.403 Fire extinguishing systems: general.
- 108.403a Fire extinguishing systems: non-vital services.
- 108.404 Selection of fire detection system.
- 108.405 Fire detection system.
- 108.407 Detectors for electrical fire detection system.
- 108.409 Location and spacing of tubing in pneumatic fire detection system.
- 108.411 Smoke detection system.
- 108.413 Fusible element fire detection system.

**FIRE MAIN SYSTEM**

- 108.415 Fire pump: general.
- 108.417 Fire pump components and associated equipment.
- 108.419 Fire main capacity.
- 108.421 Location of fire pumps and associated equipment.
- 108.423 Fire hydrants and associated equipment.
- 108.425 Fire hoses and associated equipment.
- 108.427 International shore connection.
- 108.429 Fire main system protection.

**FIXED CARBON DIOXIDE FIRE EXTINGUISHING SYSTEMS**

- 108.431 CO<sub>2</sub> systems: general.
- 108.433 Quantity of CO<sub>2</sub>: general.
- 108.435 CO<sub>2</sub> for enclosed ventilation systems for rotating electrical equipment.
- 108.437 Pipe sizes and discharge rates for enclosed ventilation systems for rotating electrical equipment.
- 108.439 Quantity of CO<sub>2</sub> for protection of spaces.
- 108.441 Piping and discharge rates for CO<sub>2</sub> systems.
- 108.443 Controls and valves.
- 108.445 Alarm and means of escape.
- 108.447 Piping.
- 108.449 Piping tests.
- 108.451 CO<sub>2</sub> storage.
- 108.453 Discharge outlets.
- 108.455 Enclosure openings.
- 108.457 Pressure release.

**HALOGENATED GAS EXTINGUISHING SYSTEMS**

- 108.458 General.

**FOAM EXTINGUISHING SYSTEMS**

- 108.459 Number and location of outlets.
- 108.461 Coamings.
- 108.463 Foam rate: protein.
- 108.467 Water supply.
- 108.469 Quantity of foam producing materials.
- 108.471 Water pump.
- 108.473 Foam system components.
- 108.474 Aqueous film forming foam systems.
- 108.475 Piping.

- 108.477 Fire hydrants.

**FIRE PROTECTION FOR HELICOPTER FACILITIES**

- 108.486 Helicopter decks.
- 108.487 Helicopter deck fueling operations.
- 108.489 Helicopter fueling facilities.

**HAND PORTABLE AND SEMI-PORTABLE FIRE EXTINGUISHING SYSTEM**

- 108.491 General.
- 108.493 Location.
- 108.495 Spare charges.

**MISCELLANEOUS FIREFIGHTING EQUIPMENT**

- 108.497 Firemen's outfits.
- 108.499 Fire axes.

**Subpart E—Lifesaving Equipment**

- 108.501 Survival capsule.
- 108.503 Lifeboats.
- 108.505 Liferrafts.
- 108.506 Lifeboat and lifeboat launching capability.
- 108.507 Launching equipment for lifeboats.
- 108.508 Launching equipment for davit launched inflatable liferafts.
- 108.509 Wire fall fleet angle.
- 108.510 Hydrostatic releases.
- 108.511 Lifeboat and liferaft arrangement.
- 108.514 Life preservers.
- 108.515 Ring life buoys.
- 108.517 Line throwing appliance.
- 108.519 Portable radio apparatus.
- 108.521 Distress signals.
- 108.523 EPIRB.
- 108.525 Means of embarkation.
- 108.527 Additional means of abandonment.

**Subpart F—Cranes and Power Operated Industrial Trucks**

**CRANES**

- 108.601 Crane design.

**POWER OPERATED INDUSTRIAL TRUCKS**

- 108.611 Power operated industrial trucks: definition.
- 108.613 Power operated industrial trucks.
- 108.615 Charging facilities for battery powered industrial trucks.

**Subpart G—Equipment Markings and Instructions**

- 108.621 Equipment markings: general.
- 108.623 General alarm bell switch.
- 108.625 General alarm bell.
- 108.627 Carbon dioxide alarm.
- 108.629 Fire extinguishing system branch line valve.
- 108.631 Fixed fire extinguishing system controls.
- 108.633 Fire stations.
- 108.635 Self-contained breathing apparatus.
- 108.636 Work vests.
- 108.637 Hand portable fire extinguishers.
- 108.639 Emergency lights.
- 108.641 Instructions for changing steering gear.
- 108.643 Rudder orders.
- 108.645 Lifeboats.
- 108.647 Inflatable liferafts.
- 108.649 Life preservers and ring life buoys.
- 108.651 Portable magazine chests.
- 108.653 Helicopter facilities.
- 108.655 Lifeboat and liferaft instructions.
- 108.657 Unit markings.
- 108.659 Breeches buoy and lifesaving signal instructions.
- 108.661 Unit markings: draft marks.

- 108.663 Unit markings: load line.
- 108.665 Appliances for watertight integrity.

**Subpart H—Miscellaneous Equipment**

- 108.697 Buoyant work vest.
- 108.699 Substitution of life preservers.
- 108.701 Sounding equipment.
- 108.703 Self-contained breathing apparatus.
- 108.705 Anchors, chains, wire rope, and haulers.
- 108.707 First aid kit.
- 108.709 Litter.
- 108.711 Pilot ladders.
- 108.713 International code of signals.
- 108.715 Magnetic compass and gyrocompass.
- 108.717 Radar.

**AUTHORITY:** Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

**Subpart A—General**

§ 108.103 Equipment not required on a unit.

Each item of lifesaving and firefighting equipment that a unit has in addition to those required by this part must meet the requirements of this subchapter for that item of equipment.

§ 108.105 Substitutes for required fittings, material, apparatus, equipment, arrangements, calculations and tests.

(a) Substitutes for fittings, material, apparatus, equipment, arrangements, calculations, and tests required in this Subchapter may be accepted by the Commandant (G-MMT), if the substitute provides an equivalent level of safety.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, apparatus, arrangement, or test is unreasonable or impracticable, the Commandant may permit the use of alternate equipment, apparatus, arrangement, or test to such an extent and upon such condition as will insure, to his satisfaction, a degree of safety consistent with the minimum standards set forth in this subchapter.

§ 108.109 Classification society standards.

(a) Any person who desires to use the rules of a classification society, other than the American Bureau of Shipping, to meet requirements in this Subchapter must request recognition of that society from the Commandant (G-MMT). The relevant rules must be submitted with the request.

### Subpart B—Construction and Arrangement

#### HULL STRUCTURE

##### § 108.113 Structural standards.

Except as provided in § 108.109, each unit must meet the structural standards of the American Bureau of Shipping's *Rules for Building and Classing Offshore Mobile Drilling Units, 1978*.

##### § 108.114 Appliances for watertight and weathertight integrity.

(a) Appliances to ensure watertight integrity include watertight doors, hatches, scuttles, bolted manhole covers, or other watertight closures for openings in watertight decks and bulkheads.

(b) Appliances to ensure weathertight integrity include weathertight doors and hatches, closures for air pipes, ventilators, ventilation intakes and outlets, and closures for other openings in deckhouses and superstructures.

(c) Each internal opening fixed with appliances to ensure watertight integrity which are used intermittently during operation of the unit while afloat must meet the following:

(1) Each door, hatch, and scuttle must—

(i) Be remotely controlled from a normally manned control station, and be operable locally from both sides of the bulkhead; or

(ii) If there is no means of remote control there must be an alarm system which signals whether the appliance is open or closed both locally at each appliance and in a normally manned control station.

(2) Each closing appliance must remain watertight under the design water pressure of the watertight boundary of which it is a part.

(d) Each external opening fitted with an appliance to ensure weathertight integrity must be located so that it would not be submerged below the final equilibrium waterline if the unit is subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311 using a wind velocity of 25.8 meters per second (50 knots).

##### § 108.115 Sliding watertight doors.

If a unit is equipped with sliding watertight doors, each sliding watertight door must be approved under Subpart 163.001 of Subchapter Q of this chapter.

#### FIRE PROTECTION: GENERAL

##### § 108.123 Isolation of combustible material.

Each internal combustion engine exhaust, boiler and galley uptake, and similar heat source must be separated or insulated from combustible materials.

##### § 108.127 Storage lockers for combustibles.

Each oil and paint locker must be made of steel or an equivalent material or be completely lined with steel or an equivalent material as described in § 108.131(c) of this subpart.

#### STRUCTURAL FIRE PROTECTION

##### § 108.131 Definitions.

(a) "Standard Fire Test" means the test in which specimens of the relevant bulkheads or decks, having a surface of approximately 4.65 square meters (50 square feet) and a height of 2.44 meters (8 feet) resembling as closely as possible the intended construction and including, where appropriate, at least one joint, are exposed in a test furnace to a series of temperature relationships approximately as follows:

(1) At the end of 5 minutes—538°C. (1,000°F.)

(2) At the end of 10 minutes—704°C. (1,300°F.)

(3) At the end of 30 minutes—843°C. (1,550°F.)

(4) At the end of 60 minutes—927°C. (1,700°F.).

(b) Bulkheads and decks are defined and classed as follows:

(1) "A class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of steel or other equivalent material; and

(ii) Prevents the passage of flame and smoke for 60 minutes if subjected to the standard fire test.

(2) "A 60 bulkhead or deck" means an A class bulkhead or deck that—

(i) Is insulated with approved insulation, bulkhead panels, or deck covering;

(ii) If subjected to the standard fire test for 60 minutes, has an average temperature rise on the unexposed side of the insulated bulkhead or deck of less than 139°C. (250°F.) above the temperature before the standard fire test and has a temperature rise at any point on the unexposed surface, including any joint, of less than 180°C. (325°F.) above the temperature before the standard fire test.

(3) "B class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of approved noncombustible material;

(ii) Prevents flame from passing through it for 30 minutes if subjected to the standard fire test.

(4) "C class bulkhead or deck" means a bulkhead or deck made of approved noncombustible material.

(c) "Equivalent material" means a material that by itself or with insulation has smoke and fire retardant properties equal to that of the steel required for "A" or "B" class bulkheads or decks and has structural qualities equivalent to steel at the end of the applicable fire exposure.

(d) "Approved material" means a material approved under one of the following subparts of Subchapter Q of this chapter:

(1) Deck coverings, Subpart 164.006.  
(2) Structural insulation, Subpart 164.007.

(3) Bulkhead panel, Subpart 164.008.

(4) Noncombustible materials, Subpart 164.009;

(5) Interior finishes, Subpart 164.012.

(e) "Stairtower" means a stairway that penetrates more than one deck within the same enclosure, or two or more stairways that—

(1) Are arranged vertically one above the other; or

(2) Penetrate both the deck and the overhead within the same enclosure.

(f) "Accommodation space" includes, sleeping, mess, hospital, recreational, toilet, washing and shower spaces, and corridors.

##### § 108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.

Each hull superstructure, structural bulkhead, deck, and deckhouse must be made of steel or an equivalent material.

##### § 108.135 Boundary bulkheads, decks of galleys, and combustible material lockers.

Each boundary bulkhead and deck of each galley, each combination galley and messroom, and each combustible material storage locker must be an A class bulkhead and A class deck respectively.

##### § 108.137 Bulkhead and deck separations of accommodation spaces.

Each boundary bulkhead and deck that separates an accommodation space or control station from the following must be an A class bulkhead and A class deck respectively—

- (a) Machinery space;
- (b) Galley or combination galley and messroom;
- (c) Main pantry;
- (d) classified space;
- (e) Store room.

##### § 108.139 Boundary bulkheads and decks of a space containing emergency power.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of

an emergency electric power source must be an A class bulkhead and A class deck respectively. When separate but adjoining spaces are provided for such equipment, boundary bulkhead type construction is not required for the separating partitions common to each space.

§ 108.141 Boundary bulkheads and decks between the emergency power source and service generators.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of an emergency electric power source that adjoins a space containing a ship's service generator, the components of a ship's service generator, or a classified space must be an A-60 bulkhead and A-60 deck.

§ 108.143 Accommodation space.

(a) Each corridor bulkhead in an accommodation space must be an A class or B class bulkhead except if an A class bulkhead is specifically required by this Part.

(b) No door in a corridor bulkhead in an accommodation space may have a louver, except that a stateroom, lounge, or recreation room door may have louvers in its lower half.

(c) Each stairtower, elevator, and dumbwaiter, and other trunk must be enclosed by A class bulkheads.

(d) Each bulkhead not described under paragraph (a) of this section must be either A class, B class, or C class bulkheads.

(e) At least one opening to each stairway must be enclosed by either A class or B class bulkheads and doors.

(f) Each stairtower must have doors at all levels and each must be an A class door.

(g) Each door required by paragraphs (e) and (f) of this section—

(1) Must be self-closing;

(2) May not have any means to permanently hold the door open, except for magnetic holdbacks that are operated from the bridge or other remote location.

(h) Interior stairs, including stringers and treads, must be made of steel or an equivalent material.

(i) Except in washrooms and toilet spaces, each deck covering in an accommodation space must be made of an approved material, except an overlay on a deck for leveling or finishing that is not more than 9.375 millimeters ( $\frac{3}{8}$  inch) thick.

(j) Except as provided in paragraph (1), each ceiling, lining, insulation, and pipe and duct lagging in an accommodation space must be made of an approved material that is noncombustible.

(k) Each sheathing, furring, or holding piece used to secure a bulkhead, ceiling, lining, or insulation in an ac-

commodation space must be made of an approved material that is non-combustible.

(l) No bulkhead, lining, or ceiling in an accommodation space may have a combustible veneer greater than 2 millimeters ( $\frac{1}{16}$  inch) in thickness.

(m) Each corridor or hidden space in an accommodation space may be covered by an approved interior finish or a reasonable number of coats of paint. However, no corridor or hidden space may have combustible veneer, trim, or decoration except material approved under Subpart 164.012 of this Chapter.

§ 108.145 Hatches and tonnage openings.

Each hatch, except a hatch between storage spaces and each tonnage opening closure, must be made of steel or an equivalent material of the same class as the bulkhead or deck where the opening occurs.

§ 108.147 Certain paints prohibited.

No nitrocellulose or other highly flammable or noxious fume-producing paint or lacquer may be used on a unit.

MEANS OF ESCAPE

§ 108.151 Two means required.

(a) Each of the following must have at least 2 means of escape:

(1) Each accommodation space with a deck area of at least 27 sq. meters (300 sq. ft.).

(2) Each space, other than an accommodation space, that is continuously manned or used on a regular working basis except for routine security checks.

(3) Weather deck areas where personnel may be normally employed.

(b) When two means of escape are required from a space below the main deck, one the means of escape must provide for a rapid escape through openings that are not required to be watertight by damage stability considerations.

(c) When two means of escape are required from a space above the main deck, one of the means of escape must provide for a rapid escape to a weather deck.

§ 108.153 Location of means of escape.

The required two means of escape must be through exits that minimize the possibility of having both exits blocked if a fire or other casualty occurs in the area.

§ 108.155 Restrictions on means of escape utilized.

A required means of escape may not be a vertical ladder or deck scuttle, except that one of the means of escape may be a vertical ladder or deck scut-

tle if a stairway would be impracticable.

§ 108.157 Locked doors.

No door to the required means of escape may be designed to lock except—

(a) A crash door or a door that has a locking device that can be easily forced, if on both sides of the door a permanent and easily seen instruction is placed; or

(b) An outside door to a deckhouse if the door can be locked by key only and if the master or person in charge has control of the key to the door's lock.

§ 108.159 Stairways and exterior inclined ladders.

Each stairway, except a stairway in a machinery or storage space, and each exterior inclined ladder must be at least 70 centimeters (28 inches) wide with an angle of inclination from the horizontal of not more than 50 degrees, except that special consideration may be given to the installation if a 70 centimeters (28 inch) width is impracticable.

§ 108.160 Vertical ladders.

(a) Each vertical ladder must have rungs that are—

(1) At least 41 centimeters (16 inches) in length;

(2) Not more than 30 centimeters (12 inches) apart, uniform for the length of the ladder; and

(3) At least 18 centimeters (7 inches) from the nearest permanent object in back of the ladder.

(b) Except when unavoidable obstructions are encountered, there must be at least 11.5 centimeters (4½ inches) clearance above each rung.

(c) Except as provided in § 108.525(e), each exterior vertical ladder more than 6 meters (20 ft.) in length must be fitted with a cage or ladder safety device meeting ANSI Standard 14.3 (1974) for fixed ladders.

(d) No vertical fixed ladders may be made of wood.

§ 108.161 Dead end corridors.

No dead end corridor may be more than 13 meters (43 feet) long.

§ 108.165 Access to lifeboats and liferafts.

Each unit must be designed to provide direct access to the lifeboat and liferaft embarkation areas.

§ 108.167 Weather deck ladders.

Each unit must have at least one permanent, inclined ladder between each weather deck.

## CLASSIFIED LOCATIONS

## § 108.170 Definitions.

(a) Classified locations are those in which flammable hydrocarbon gas or vapors, resulting from the drilling operations, may be present in quantities sufficient to produce an explosive or ignitable mixture. Location of these areas affect the design of the units' machinery, electrical, and ventilation systems. (See notes 1 and 2).

(b) For the purpose of this subpart "semi-enclosed location" means a location where natural conditions of ventilation are notably different from those on open decks due to the presence of structures such as roofs, windbreaks, or bulkheads.

NOTE.—1. Hazardous atmospheres are further defined in § 111.80 of this Chapter.

2. For specific requirements for machinery and electrical installations on mobile offshore drilling units see Subchapters "F" and "J" of this Chapter.

## § 108.171 Class I, Division 1 locations.

The following are Class I, Division 1 locations:

(a) An enclosed space that contains any part of the mud circulating system that has an opening into the space and is between the well and final degassing discharge.

(b) An enclosed or semi-enclosed location that is below the drill floor, and contains a possible source of gas release.

(c) An enclosed space that is on the drill floor, and is not separated by a solid, gas-light floor from the spaces specified in paragraph (b).

(d) A space that would normally be considered a Division 2 location under § 108.173 but where combustible or flammable gases might accumulate.

(e) A location in the weather, or a semi-enclosed location, except as provided in paragraph (b) that is within 1.5 m (5 ft.) of the boundary of any—

(1) Equipment or opening specified in paragraph (a);

(2) Ventilation outlet, access, or other opening to a Class I, Division 1 space; or

(3) Gas vent outlet.

(f) Except as provided in § 108.175, an enclosed space that has an opening into a Class I, Division 1 location.

## § 108.173 Class I, Division 2 locations.

The following are Class I, Division 2 locations:

(a) An enclosed space that has any open portion of the mud circulating system from the final degassing discharge to the mud suction connection at the mud pit.

(b) A location in the weather that is—

(1) Within the boundaries of the drilling derrick up to a height of 3 m (10 ft.) above the drill floor;

(2) Below the drill floor and within a radius of 3 m (10 ft.) of a possible source of gas release; or

(3) Within 1.5 m (5 ft.) of the boundaries of any ventilation outlet, access, or other opening to a Class I, Division 2 space.

(c) A location that is—

(1) Within 1.5 m (5 ft.) of a semi-enclosed Class I, Division 1 location indicated in § 108.171(b); or

(2) Within 1.5 m (5 ft.) of a Class I, Division 1 space indicated in § 108.171(e).

(d) A semi-enclosed area that is below and contiguous with the drill floor to the boundaries of the derrick or to the extent of any enclosure which is liable to trap gasses.

(e) A semi-enclosed derrick to the extent of its enclosure above the drill floor or to a height of 3 m (10 ft.) above the drill floor, whichever is greater.

(f) Except as provided in § 108.175 an enclosed space that has an opening into a Class I, Division 2 location.

## § 108.175 Contiguous locations.

An enclosed space that has direct access to a Division 1 or Division 2 location is the same division as that location, except—

(a) An enclosed space that has direct access to a Division 1 location is not a hazardous location if—

(1) The access has self-closing gas-tight doors that form an air lock;

(2) The ventilation causes greater pressure in the space than in the Division 1 location; and

(3) Loss of ventilation overpressure activates an alarm at a manned station;

(b) An enclosed space that has direct access to a Division 1 location can be considered as a Division 2 location if—

(1) The access has a self-closing, gas-tight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 1 location; and

(3) Loss of ventilation activates an alarm at a manned control station; and

(c) An enclosed space that has direct access to a Division 2 location is not a hazardous location if—

(1) The access has a self-closing, gas-tight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 2 location; and

(3) Loss of ventilation activates an alarm at a manned control station.

## § 108.177 Electrical equipment in classified locations.

Electrical equipment and devices installed in spaces made non-hazardous

by the methods indicated in § 108.175 must only be essential equipment.

## VENTILATION

## § 108.181 Ventilation for enclosed spaces.

(a) Each enclosed space must be vented or ventilated.

(b) There must be a means to close each vent or ventilating system.

(c) Each fan in a ventilating system must have remote controls installed in accordance with Subpart 111.80-13 of this chapter.

(d) There must be a means to close each doorway, ventilator, and annular space around each funnel or other opening to machinery, stowage, or working spaces. The means must be located outside the space.

(e) Each intake in a ventilating system must be located so as to prevent, as far as practicable, the intake of noxious fumes.

## § 108.185 Ventilation for enclosed classified locations.

(a) The ventilation system for each enclosed classified location must be designed to maintain a pressure differential between the enclosed classified location and each non-classified location adjacent to the enclosed classified location, so as to prevent the discharge of ignitable gases into the non-classified adjacent locations.

(b) Each air intake must be outside of enclosed classified locations.

(c) Each unit must have alarms at a continuously manned station that signal when—

(1) Gas is present in an enclosed classified location; or

(2) The ventilation system for the space is not working.

(d) Each ventilation system for enclosed classified locations must provide a complete change of air every five minutes.

## § 108.187 Ventilation for brush type electric motors in classified spaces.

Ventilation for brush type electric motors in classified locations must meet N.F.P.A. 496-1974 "Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations", except audible and visual alarms may be used if shutting down the motors may cause unsafe conditions.

## ACCOMMODATION SPACES

## § 108.193 Restrictions.

(a) There must be no direct communication between the accommodation spaces and any chainlocker, stowage, or machinery space, except through solid, close-fitted doors or hatches.

(b) No access, vent, or sounding tube from a fuel or oil tank may open into any accommodation space, except that

accesses and sounding tubes may open into corridors.

§ 108.195 Location of accommodation spaces.

(a) On surface type units, accommodation spaces must not be located forward of a vertical plane located at 5 percent of the unit's length aft of the stem, at the designed summer load line.

(b) On all units, the deckhead of each accommodation space must be above the deepest load line.

§ 108.197 Construction of accommodation spaces.

(a) Each sleeping, mess, recreational, or hospital space that is adjacent to or immediately above a stowage or machinery space, paint locker, drying room, washroom, toilet space, or other odor source must be made odorproof.

(b) Each accommodation space that is adjacent to or immediately above a galley, machinery space, machinery casing, boiler room, or other noise or heat source, must be protected from the heat and noise.

(c) Where the shell or an un-sheathed weather deck forms a boundary of an accommodation space, the shell of deck must have a covering that prevents the formation of moisture.

(d) The deckheads of each accommodation space must be a light color.

(e) Each accommodation space in which water may accumulate must have a drain scupper located in the lowest part of the space, considering the average trim of the unit.

(f) Each public toilet space must be constructed and located so that its odors do not readily enter any sleeping, mess, recreational, or hospital space.

§ 108.199 Arrangement of sleeping spaces.

To the extent practicable, each occupation group must be berthed together in sleeping spaces arranged to minimize disturbance created by personnel leaving for or arriving from a working period.

§ 108.201 Size of sleeping spaces.

(a) No sleeping space may berth more than four persons, except that a sleeping space for personnel not regularly employed on a unit may berth up to six persons if the space meets § 108.199 and berthing of six persons in that space is authorized by the Commandant (G-MMT).

(b) Without deducting any equipment used by the occupants, each sleeping space must have for each occupant—

(1) 2.8 square meters (approximately 30 square feet) of deck area; and

(2) 6 cubic meters (approximately 210 cubic feet) of volume.

(c) Each sleeping space must have at least 191 centimeters (approximately 6 feet 3 inches) of headroom over clear deck areas.

§ 108.203 Berths and lockers.

(a) Each sleeping space must have a separate berth for each occupant.

(b) No more than one berth may be placed over another.

(c) Each berth must have a framework of hard, smooth material that is not likely to corrode or harbor vermin.

(d) Each berth must be arranged to provide ample room for easy occupancy.

(e) Each berth must be at least 76 centimeters (approximately 30 inches) wide by 193 centimeters (approximately 76 inches) long.

(f) Adjacent berths must be separated by a partition that extends at least 46 centimeters (approximately 18 inches) above the sleeping surface.

(g) The bottom of a lower berth must be at least 30 centimeters (approximately 12 inches) above the deck.

(h) The bottom of an upper berth must be at least 76 centimeters (approximately 2 feet 6 inches) from the bottom of the berth below it and from the deck or any pipe, ventilating duct, or other overhead installation.

(i) Each berth must have a berth light.

(j) Each occupant of a sleeping space must have a readily accessible locker of hard, smooth material.

(k) Each locker must be at least .194 square meters (approximately 300 square inches) in cross section and 1.53 meters (approximately 60 inches) high.

§ 108.205 Wash spaces; toilet spaces; and shower spaces.

(a) For the purposes of this section—

(1) "Private facility" means a toilet, washing, or shower space that is accessible only from one single or double occupancy sleeping space;

(2) "Semi-private facility" means a toilet, washing or shower space that is accessible from either of two one-to-four person occupancy sleeping spaces; and

(3) "Public facility" means a toilet, washing, or shower space that is not private or semi-private.

(b) Each private facility must have one toilet, one shower, and one washbasin, all of which may be in a single space.

(c) Each semi-private facility must have at least one toilet and one shower, which may be in a single space.

(d) Each room adjoining a semi-private facility must have a washbasin if a washbasin is not installed in a semi-private facility.

(e) Each unit must have enough public facilities to provide at least one

toilet, one shower, and one washbasin for each eight persons who occupy sleeping spaces that do not have private or semi-private facilities.

(f) Urinals may be installed in toilet rooms, but no toilet required in this section may be replaced by a urinal.

(g) Each public toilet space and washing space must be convenient to the sleeping space that it serves.

(h) No public facility may open into any sleeping space.

(i) Each washbasin, shower, and bathtub must have hot and cold running water.

(j) Adjacent toilets must be separated by a partition that is open at the top and bottom for ventilation and cleaning.

(k) Public toilet facilities and shower facilities must be separated.

(l) Each public facility that is a toilet space must have at least one washbasin unless the only access to the toilet space is through a washing space.

(m) Each toilet must have an open front seat.

(n) Each washing space and toilet space must be so constructed and arranged that it can be kept in a clean and sanitary condition and the plumbing and mechanical appliances kept in good working order.

(o) Washbasins may be located in sleeping spaces.

§ 108.207 Messrooms.

(a) Each messroom that is not adjacent to the galley that serves it must be equipped with a steamtable.

(b) Each messroom must seat the number of persons expected to eat in the messroom at one time.

§ 108.209 Hospital spaces.

(a) Each unit carrying twelve or more persons on a voyage of more than three days must have a hospital space.

(b) Each hospital space must be suitably separated from other spaces.

(c) No hospital space may be used for any other purpose, when used for care of the sick.

(d) An entrance to each hospital space must be wide enough and arranged to readily admit a person on a stretcher.

(e) Each berth in a hospital space must be made of metal.

(f) Each upper berth must be hinged and arranged so that it can be secured clear of the lower berth.

(g) Each hospital space must have at least one berth that is accessible from both sides.

(h) Each hospital space must have one berth for every 12 persons or portion thereof on board, who are not berthed in single occupancy rooms, but the number of berths need not exceed six.

(i) Each hospital space must have a toilet, washbasin, and bathtub or shower accessible from the hospital space.

(j) Each hospital space must have clothes lockers, a table, and seats.

#### § 108.210 Hospital space not required.

The hospital space required under § 108.209 is not required on a unit if one single or double occupancy sleeping space, designated and equipped as a treatment or isolation room or both is available for immediate medical use, and has—

(1) An entrance that is wide enough and arranged to readily admit a person on a stretcher;

(2) A single berth or examination table that is accessible from both sides; and

(3) A washbasin in or immediately adjacent to it.

#### § 108.211 Miscellaneous accommodation spaces.

(a) Each unit must have enough facilities for personnel to wash their own clothes, including at least one tub or sink that has hot and cold running water.

(b) Each unit must have enough equipment or space for the personnel to dry their own clothes.

(c) Each unit must have an accommodation space that can be used for recreation.

#### § 108.213 Heating requirements.

(a) Each accommodation space must be heated by a heating system that can maintain at least 20°C. (68°F.).

(b) Radiators and other heating apparatuses must be constructed, located or shielded so as to avoid risk of—

- (1) Fire;
- (2) Danger; and
- (3) Discomfort

to the occupants of each accommodation space.

(c) Each exposed pipe in an accommodation space, leading to a radiator or other heating apparatus must be insulated.

#### § 108.215 Insect screens.

(a) Accommodation spaces must be protected against the admission of insects.

(b) Insect screens must be installed when natural ventilation is provided.

### RAILS

#### § 108.217 Guardrails and bulwarks.

(a) Each unit must have guardrails or bulwarks along the edge of the bridge, of each deck, and of each deck opening.

(b) Each guardrail and bulwark must extend at least one meter (39.37 inches) above the deck except where this height may interfere with the

normal operation of the unit, a lesser height may be approved.

(c) Removable guardrails may be installed where operating conditions warrant their use.

#### § 108.219 Guardrails.

(a) Except for exposed peripheries of a freeboard or superstructure deck, each guardrail must have at least two evenly spaced courses.

(b) At exposed peripheries of a freeboard or superstructure deck, each guardrail must have at least three courses not more than 38 centimeters (15 in.) apart with the lowest course not more than 23 centimeters (9 in.) above the deck.

(c) For a rounded gunwale, the guardrail must be at the edge of the flat of the deck.

#### § 108.221 Storm rails.

Each unit must have a storm rail in the following locations:

(a) On each deckhouse side that is normally accessible.

(b) On each side of each passageway that is wider than 1.83 meters (6 feet).

(c) On at least one side of each passageway that is less than 1.83 meters (6 feet) wide.

#### § 108.223 Guards on exposed equipment.

Each unit must have hand covers, guards, or rails installed on all belts, gears, shafts, pulleys, sprockets, spindles, flywheels or other reciprocating, rotating or moving parts of machinery or equipment normally exposed to contact by personnel.

### HELICOPTER FACILITIES

#### § 108.231 Application.

Sections 108.231 through 108.241 apply to each unit with a helicopter landing facility.

#### § 108.233 Location and size.

(a) Each helicopter deck must be—

(1) At least the size of the rotor diameter of the largest single main rotor helicopter that will be used on the facility; or

(2) If tandem main rotor helicopters use the facility, at least of a size to provide a longitudinal axis of  $\frac{1}{10}$  the overall length of the helicopter, and a width of  $\frac{1}{4}$  of the overall length of the helicopter.

NOTE.—For the purpose of paragraph (a)(2) the overall length is measured across both main rotors in the fore and aft line.

(b) Each helicopter deck must be located so as to provide clear approach/departure paths to enable the largest helicopter using the facility to operate in all weather conditions which allow helicopter operations.

#### § 108.235 Construction.

(a) Each helicopter deck must be designed to accommodate the loadings (static and dynamic) imposed by operation and stowage of helicopters intended to use the facility as well as environmental loadings (wind, wave, water, snow, etc.) anticipated for the unit.

(b) The adequacy of each helicopter deck for the loadings required in paragraph (a) must be shown by design calculations. Where the placement of a load affects the suitability of a structural member, the load must be evaluated in the most unfavorable position for each member.

(c) The analysis required in paragraph (b) must be based on the dead load of the structure, existing stresses in the deck when it is an integral part of a unit's structure, and each of the following loading conditions:

(1) *Uniform distributed loading.* A loading of 2kg/m<sup>2</sup> (42 lb/ft<sup>2</sup>) applied to the helicopter deck area.

(2) *Helicopter landing impact loading.* The limit load established by the limit drop test in 14 CFR 29.725, or a load of not less than 75 percent of the helicopter maximum weight taken on a square area of 0.3×0.3 m (1 ft.×1 ft.) under each main landing gear unit applied anywhere on the helicopter deck area.

(3) *Stowed helicopter loading.* The helicopter maximum weight plus inertial forces from the helicopter due to anticipated unit motions, and applicable environmental loadings including wind loads.

(d) The landing area of each helicopter facility must—

- (1) Have a non-skid surface;
- (2) Have drainage facilities that prevent the collection of liquids and prevent liquids from spreading to or falling on other parts of the unit;
- (3) Have recessed tie-down points; and

(4) Be free of projections, except that landing lights or other projections may be installed around the periphery of the landing deck provided they do not interfere with landing and take-off operations.

(e) The unprotected perimeter of each helicopter facility must have a safety net at least 1.5 meters (4.92 ft.) wide. The outer edge of the net must not extend more than 15 centimeters (6 in.) above the surface of the deck.

(f) Each helicopter facility must have both a main and an emergency access/egress route located as far apart from each other as practicable.

#### § 108.237 Fuel storage facilities.

(a) Helicopter fuel storage tanks must be installed as far as practicable from—

- (1) The landing area; and
- (2) Each source of vapor ignition.

(b) Integral tanks must meet Subpart 58.50 of this Chapter.

(c) Marine portable fuel stowage tanks must meet Part 64 of this Chapter.

(d) Each marine portable fuel stowage tank must have a means to contain fuel spills or leaks.

§ 108.239 Fuel transfer equipment.

(a) Each nozzle must be a "dead-man" type.

(b) Each hose must have a storage reel.

(c) Each hose must have a static grounding device.

(d) Each electric fuel transfer pump must have a control with a fuel transfer pump operation indicator light at the pump.

(e) There must be a fuel pump shut off at each of the access routes required by § 108.235(f).

(f) Each fuel transfer pump and each hose reel must have a means to contain fuel spills or leaks.

(g) Each hose must meet chapter 3 "Aircraft Fueling Hose" of National Fire Protection Association Standard for Aircraft Fuel Servicing (N.F.P.A. No. 407-1975).

§ 108.241 Visual aids.

(a) Each helicopter deck must—

(1) Have a wind direction indicator located in an unobstructed area readily visible to helicopter pilots approaching the deck;

(2) Be fitted around the perimeter with yellow and blue lights in alternate order, not more than 3 meters (10 ft.) apart; and

(3) Be marked with—

(i) The unit's identification;

(ii) A continuous line 40 centimeters (16 in.) wide on the perimeter; and

(iii) Aiming circles as may be appropriate considering deck configuration, helicopter type, and operational requirements.

(b) All markings must be in a contrasting color to the surface of the deck.

**Subpart C—Stability**

§ 108.301 Stability: definitions.

For the purposes of this subpart:

(a) "Normal operating condition" means a condition of a unit when loaded or arranged for drilling, field transit, or ocean transit.

(b) "Severe storm condition" means a condition of a unit when loaded or arranged to withstand the passage of a severe storm.

(c) "Downflooding" means the entry of seawater through any opening which cannot be rapidly closed watertight, into the hull, superstructure, or

columns of an undamaged unit due to heel, trim, or submergence of the unit.

(d) "Downflooding angle" means the static angle from the calm seawater surface at a unit's waterline to the first opening through which downflooding could occur, considering heel, trim, and submergence of the unit when subjected to a wind heeling moment (Hm) calculated in accordance with § 108.311.

§ 108.303 Stability requirements: general.

Each unit must be designed to have at least 5 cm (2 inches) of positive metacentric height in the upright equilibrium position for the full range of drafts, whether at the operating draft for navigation, towing, or drilling afloat, or at a temporary draft when changing drafts.

§ 108.305 Intact stability requirements.

(a) Each unit must be designed so that the wind heeling moments (Hm) and righting moments calculated for each of its normal operating conditions and severe storm conditions, when plotted on graph 108.305, define areas that satisfy the equation  $[Area (A)] > [K] \times [Area (B)]$  where—

(1)  $K=1.4$ , except that if the unit is a column stabilized unit  $K=1.3$ ;

(2) Area (A) is the area on graph 108.305 under the righting moment curve between  $0^\circ$  and the second intercept angle or the angle of heel at which downflooding would occur, whichever angle is less; and

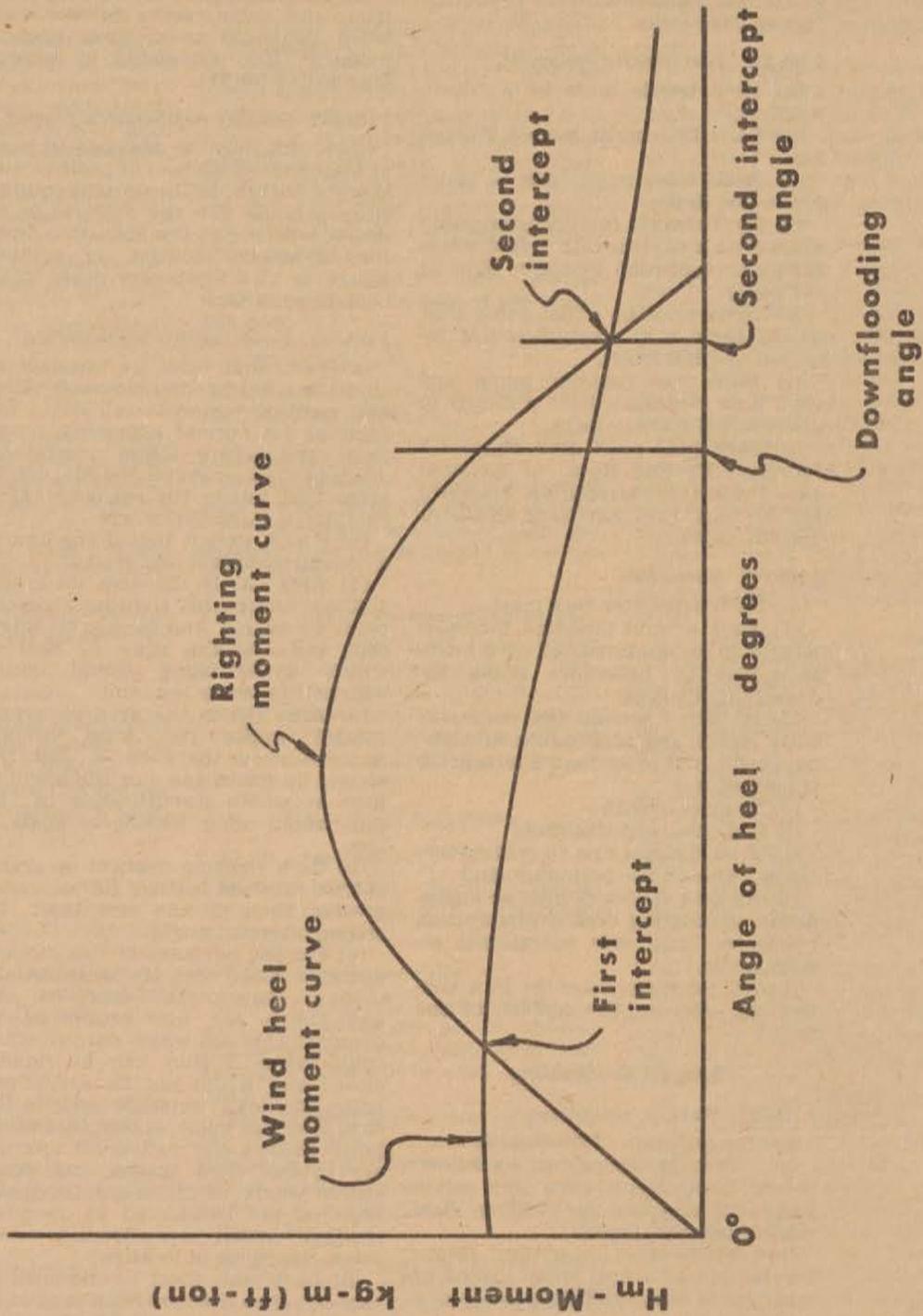
(3) Area (B) is the area on graph 108.305 under the wind heeling moment curve between  $0^\circ$  and the second intercept angle or the angle of heel at which downflooding of the unit would occur whichever angle is less.

(b) Each righting moment on graph 108.305 must be positive for all angles greater than  $0^\circ$  and less than the second intercept angle.

(c) For the purposes of this section, openings fitted with the weathertight closing appliances specified in § 108.114(b) are not considered as openings through which downflooding could occur if they can be rapidly closed and would not be submerged below the units' waterline prior to the first intercept angle, except that ventilation intakes and outlets for machinery spaces, crew spaces, and other spaces where ventilation is normally required are considered as openings through which downflooding could occur regardless of location.

(d) Each unit must be designed so that it can be changed from each of its normal operating conditions to a severe storm condition within a minimum period of time consistent with the operating manual required in § 109.121.

Graph 108.305 - Intact Stability Curves for a Given Normal Operating or Severe Storm Mode



[4910-14-C]

§ 108.309 Stability on bottom.

Each bottom bearing unit must be designed so that, while supported on the sea bottom with footings or a mat, it continually exerts a downward force on each footing or the mat when subjected to the forces of wave and current and to wind blowing at the velocities described in § 108.311(b)(3).

§ 108.311 Calculation of wind heeling moment (Hm).

(a) The wind heeling moment (Hm) of a unit in a given normal operating condition or severe storm condition is the sum of the individual wind heeling moments (H) calculated for each of the exposed surfaces on the unit; i.e.,  $Hm = \Sigma H$ .

(b) Each wind heeling moment (H) must be calculated using the equation  $H = kv^2 C_h C_s A h$ , where—

- (1) H = wind heeling moment for an exposed surface on the unit;
- (2)  $k = 0.0623$  kilograms (kg-sec<sup>2</sup>)/m<sup>4</sup> (0.00338 lb/(ft<sup>2</sup>-knots<sup>2</sup>));
- (3)  $v$  = wind velocity of—
  - (i) 36 meters per second (70 knots) for normal operating conditions.
  - (ii) 51.5 meters per second (100 knots) for severe storm conditions.

(iii) 25.8 meters per second (50 knots) for damage conditions.

(4) A = projected area of an exposed surface on the unit;

(5)  $C_h$  = height coefficient for "A" from Table 108.311(a);

(6)  $C_s$  = shape coefficient for "A" from Table 108.311(b); and

(7)  $h$  = the vertical distance from the center of lateral resistance of the underwater hull to the center of wind pressure on "A".

(c) When calculating "A" in the equation described in paragraph (b) of this section—

(1) The projected area of each column or leg, if the unit has columns or legs, must not include shielding allowances;

(2) Each area exposed as a result of heel must be included;

(3) The projected area of a cluster of deck houses may be used instead of the projected area of each individual deck house in the cluster; and

(4) The projected area of open truss work may be calculated by taking 30% of the projected areas of both the front and back sides of the open truss work rather than by determining the projected area of each structural member of the truss work.

TABLE 108.311(a).— $C_h$  Values

Meters		Feet		$C_h$
Over	Not exceeding	Over	Not exceeding	
0	15.3	0	50	1.00
15.3	30.5	50	100	1.10
30.5	46.0	100	150	1.20
46.0	61.0	150	200	1.30
61.0	76.0	200	250	1.37
76.0	91.5	250	300	1.43
91.5	106.5	300	350	1.48
106.5	122.0	350	400	1.52
122.0	137.0	400	450	1.56
137.0	152.5	450	500	1.60
152.5	167.5	500	550	1.63
167.5	183.0	550	600	1.67
183.0	198.0	600	650	1.70
198.0	213.5	650	700	1.72
213.5	228.5	700	750	1.75
228.5	244.0	750	800	1.77
244.0	256.0	800	850	1.79
Above 256		Above 850		1.80

NOTE: The " $C_h$ " value in this table used in the equation described in section 108.311(b) corresponds to the value of the vertical distance in meters (feet) from the water surface at the design draft of the unit to the center of area of the "A" value used in the equation.

TABLE 108.311(b).— $C_s$  Values

Shape	$C_s$
Cylindrical shapes	0.5
Hull (surface type)	1.0
Deckhouse	1.0
Cluster of deckhouses	1.1
Isolated structural shapes (cranes, angles, channels, beams, etc.)	1.5
Under deck areas (smooth surfaces)	1.0
Under deck areas (exposed beams and girders)	1.3
Rig derrick (each face and open truss works)	1.25

NOTE.—The value of  $C_s$  in this table used in the equation described in § 108.311(b) corresponds to the shape of the projected Area "A" in the equation.

§ 108.313 Submission of intact stability data.

Intact stability data submitted under § 107.305 of this subchapter must contain the righting moment curves and wind heeling moment curves described in graph 108.305 of this subpart, each with supporting calculations, for each of the unit's normal operating conditions and severe storm conditions.

§ 108.315 Damage stability requirements.

(a) Each unit must be designed so that, while in each of its normal oper-

ating conditions and severe storm conditions, its final equilibrium waterline would remain below the lowest edge of any opening through which additional flooding could occur if the unit were subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311(b) using a wind velocity of 25.8 meters per second (50 knots).

(b) Each unit must have a means to close off each pipe, ventilation system, and trunk in each compartment described in § 108.321 or § 108.323 if any portion of the pipe, ventilation system, or trunk is within 1.5 meters (5 feet) of the hull.

§ 108.317 General damage stability assumptions.

For the purpose of determining compliance with § 108.315 of this subpart, the assumptions are made that during flooding and the resulting change in the unit's waterline—

(a) The unit is not anchored or moored; and

(b) No compartment on the unit is ballasted or pumped out to compensate for the flooding described in §§ 108.319–108.323 of this subpart.

§ 108.319 Compartments assumed flooded: general.

The individual flooding of each of the compartments described in § 108.321 and § 108.323 of this subpart must be assumed for the purpose of determining compliance with § 108.315(a) of this subpart. Simultaneous flooding of more than one compartment must be assumed only when indicated in § 108.321 and § 108.323.

§ 108.321 Flooding on self-elevating and surface type units.

(a) On a surface type unit or self-elevating unit, all compartments within 1.5 meters (5 feet) of the hull of the unit between two adjacent main watertight bulkheads, the bottom shell, and the uppermost continuous deck or first superstructure deck where superstructures are fitted must be assumed to be subject to simultaneous flooding.

(b) On the mat of a self-elevating unit, all compartments of the mat must be assumed to be subject to individual flooding.

### § 108.323 Flooding on column stabilized units.

(a) Watertight compartments that are outboard of, or traversed by, a plane which connects the vertical centerlines of the columns on the periphery of the unit, and within 1.5 meters (5 feet) of an outer surface of a column or footing on the periphery of the unit, must be assumed to be subject to flooding as follows:

(1) When a column is subdivided into watertight compartments by horizontal watertight flats, all compartments in the column within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(2) When a column is subdivided into watertight compartments by vertical watertight bulkheads, each two adjacent compartments must be assumed subject to simultaneous flooding if the distance between the vertical watertight bulkheads, measured at the column periphery, is equal to or less than one-eighth of the column perimeter at the draft under consideration.

(3) When a column is subdivided into watertight compartments by horizontal watertight flats and vertical watertight bulkheads, those compartments that are within the bounds described in paragraph (a)(2) and within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(b) Each compartment in a footing must be assumed to be subject to individual flooding when any part of the compartment is within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding.

### § 108.325 Permeabilities.

The calculations submitted in accordance with § 108.329 of this subpart must show the permeability of each space considered in the calculations. The calculation of each permeability used must also be shown unless the value used is listed in Table 108.325.

TABLE 108.325—Permeability Values

Space	Permeability
Cargo or storage space.....	0.95
Accommodation space.....	0.95
Machinery space.....	0.85
Tank intended for liquids.....	0.0 or 0.95

<sup>1</sup> Actual value may be calculated and used.

<sup>2</sup> Use the value which results in the greatest change in the unit's waterline.

### § 108.329 Submission of damage stability data and calculations.

Damage stability data must be submitted for approval before the unit's original inspection for certification. These data must contain residual

righting moment curves, wind heeling moment curves, and plans or sketches showing the unit's final equilibrium waterline, with supporting calculations for each, for each of the unit's normal operating conditions and severe storm conditions. These data must show compliance with § 108.315.

### § 108.335 Stability test.

(a) Except as provided in paragraph (c) of this section, the owner of a unit must—

(1) Conduct a stability test of the unit to determine the location of its center of gravity and lightship displacement; and

(2) Submit the results of the test for approval by the Coast Guard before the unit's original inspection for certification.<sup>1</sup>

(b) An authorized Coast Guard representative must be present at each stability test conducted under this section

(c) A stability test is not required for a unit if the owner provides the Coast Guard with the Coast Guard approved results of a stability test of a sister unit and the Commandant determines that reliable stability information for the unit not tested is obtainable from the test results of the sister unit.

### § 108.337 Plans and information required at the stability test.

The owner of a unit must provide the following plans and information to the authorized Coast Guard representative prior to the stability test:

(a) Lines.  
(b) Curves of form.  
(c) Capacity plans showing capacities and vertical and longitudinal centers of gravity of stowage spaces and tanks.

(d) Tank sounding tables.

(e) Draft mark locations.

(f) General arrangement plan of decks, holds, and inner bottoms.

(g) Inboard and outboard profile.

(h) A complete list of material or equipment to be installed, removed, or relocated after the test, including the weight and location of each item on the list.

### § 108.339 Stability test preparations.

The following preparations must be made before conducting a stability test:

(a) The unit must be as complete as practicable at the time of the test.

(b) Each tank must be either empty and dry or full and without air pockets, except that a tank may be partially filled if the Commandant (G-MMT) determines that compliance with this requirement is impracticable and that the effect of partial filling on the loca-

<sup>1</sup> A stability letter is issued by the Coast Guard after approval of the test results and of the information required in § 109.121.

tion of the center of gravity and the displacement of the unit can be accurately determined.

(c) All dunnage, tools, and other items extraneous to the complete unit must be removed from the unit.

(d) The water depth at the mooring site must provide ample clearance against grounding.

(e) Each mooring line must be arranged so that it does not interfere with the free inclination of the unit during the test.

(f) The draft and axis of rotation selected for the test must be those that result in acceptable accuracy in calculating the unit's displacement and location of center of gravity.

(g) At least two weeks prior to the date of the test, a stability test procedure must be submitted for approval. The procedure must include:

(1) Identification of the unit to be tested.

(2) Date and location of the test.

(3) Inclining weight data.

(4) Pendulum locations and lengths.

(5) Approximate draft and trim of the unit.

(6) Condition of each tank.

(7) Estimated items to be installed, removed, or relocated after test, including the weight and location of each item.

(8) Schedule of events.

### § 108.341 Stability test deviation.

The authorized Coast Guard representative present at a stability test may allow a deviation from the requirement of § 108.337 of this subpart if he determines that the deviation will not affect the accuracy of the test results.

### § 108.343 Stability: alterations.

Where alterations are made which materially affect the stability of a unit, amended stability information must be approved by the Coast Guard. The Coast Guard may require the unit to have a new stability test.

## Subpart D—Fire Extinguishing Systems

### § 108.401 Fire main system.

Each unit must have a fire main system.

### § 108.403 Fire extinguishing systems: General.

(a) Each of the following on a unit must have an approved fixed gaseous type extinguishing system:

(1) Each paint locker, oil room, and similar space.

(2) Each enclosed space containing internal combustion or gas turbine main propulsion machinery.

(3) Each enclosed space containing internal combustion machinery with

an aggregate power of at least 1000 B.H.P.

(4) Each enclosed space containing a fuel oil unit, including purifiers, valves, or manifolds for main propulsion machinery or internal combustion machinery with an aggregate power of at least 1000 B.H.P.

(5) Each enclosed ventilation system for electric motors or generators used for vital services including bilge pumps, fire pumps, or propulsion.

(b) Each space containing an oil fired boiler, the fuel oil unit or valves for the boiler, or manifolds in the line between the fuel settling tanks and the boiler on a unit must have a fixed gas type, foam, water spray, or other approved fire extinguishing system.

§ 108.403a Fire extinguishing systems: non-vital services.

Each enclosed ventilating system for electric motors or generators not used for vital services must have an access into the system for firefighting or be protected by a fixed fire protection system.

§ 108.404 Selection of fire detection system.

(a) If a fire detector is in a space, it must provide effective detection of fires most likely to occur in the space.

(b) The fire detection system must be designed to minimize false alarms.

§ 108.405 Fire detection system.

(a) Each fire detection system and each smoke detection system on a unit must—

(1) Be approved by the Commandant; and

(2) Have a visual alarm and an audible alarm in the pilothouse or at a normally manned control station for the system.

(b) Each fire detection system must be divided into zones to limit the area covered by any particular alarm signal.

(c) Each visual alarm must—

(1) Have a chart or diagram next to the alarm that shows the location of the zones in the system and that contains the instructions for operating, and testing the system;

(2) When activated show the zone in the system where fire has been detected; and

(3) Be in a noticeable location in the pilothouse or control station.

§ 108.407 Detectors for electric fire detection system.

(a) Each detector in an electric fire detection system must be located where—

(1) No portion of the overhead of a space protected is more than 3 meters (10 feet) from a detector;

(2) Beams and girders extending below the ceiling of the space protect-

ed and any other obstructions do not detract from the effectiveness of the detector; and

(3) Damage to the detector is unlikely to occur if it is not protected.

(b) Each detector must be set to activate at not less than 57° C (135° F) and at not more than 73° C (165° F), except that if a space normally has a high ambient temperature each detector may be set to activate at not less than 80° C (175° F) and not more than 107° C (225° F).

§ 108.409 Location and spacing of tubing in pneumatic fire detection system.

(a) All tubing in a pneumatic fire detection system must be on the overhead or within 300 millimeters (12 inches) of the overhead on a bulkhead in a location where—

(1) No portion of the overhead is more than 3.6 meters (12 feet) from the nearest point of tubing;

(2) Beams or girders extending below the ceiling or other obstructions do not detract from the effectiveness of the tubing; and

(3) Damage to the tubing, is unlikely to occur if it is not protected.

(b) If tubing in a tubing circuit is installed in an enclosed space, at least 5% of the tubing in the circuit must be exposed in the space, except that at least 7.6 meters (25 feet) of tubing must always be exposed in the space.

(c) A pneumatic fire detection system must be set to activate after approximately a 22° C. (40° F.) per minute increase in temperature at the center of the circuit in the system.

§ 108.411 Smoke detection system.

Each smoke accumulator in a smoke detection system must be located on the overhead of the compartment protected by the system in a location—

(a) Where no portion of the overhead of the compartment is more than 12 meters (40 feet) from an accumulator;

(b) That is no closer to the opening of a ventilator than 3 times the diameter or equivalent size of the opening.

(c) Where damage to the accumulator is unlikely to occur if it is not protected.

§ 108.413 Fusible element fire detection system.

(a) A fusible element fire detection system may be installed.

(b) The arrangements for the system must be acceptable to the Commandant.

FIRE MAIN SYSTEM

§ 108.415 Fire pump: general.

A fire main system must have at least two independently driven fire pumps that can each deliver water at a continuous pitot tube pressure of at

least 3.5 kilograms per square centimeter (approximately 50 pounds per square inch) at at least two fire hose nozzles that are connected to the highest two fire hydrants on the unit. Alternative designs that meet the pressure requirement of this paragraph will be considered for column stabilized and self elevating units.

§ 108.417 Fire pump components and associated equipment.

(a) Each fire pump in a fire main system must have a relief valve on its discharge side that is set to relieve at 1.75 kilograms per square centimeter (approximately 25 pounds per square inch) in excess of the pump discharge pressure necessary to meet the pressure required in § 108.415 for the pump or 8.6 kilograms per square centimeters (approximately 125 pounds per square inch), whichever is greater. A relief valve may be omitted if the pump operating under shut off condition is not capable of developing the pressure described in § 108.415 plus 1.75 kilograms per square centimeter (25 pounds per square inch).

(b) Each fire pump in a fire main system must have a pressure gauge on its discharge side.

(c) Fire pumps may be used for other purposes. One of the required pumps must be kept available for use on the fire system at all times. If a fire pump is used in a system other than the fire main system, except for branch lines connected to the fire main for deck washing, each pipe connecting the other system must be connected to the pump discharge through a shut off valve at a manifold near the pump. If the fire pump exceeds the pressure in § 108.417(a), the pipe leading from the discharge manifold to other portions of the fire main system must have a reducing station and a pressure gauge in addition to the pressure gauge required by paragraph (b) of this section.

(d) If a fire pump has a reducing station, the relief valve required by paragraph (a) of this section for the pump and the additional pressure gauge required in paragraph (c) of this section must not be located on the discharge side of the reducing station.

(e) An oil line must be connected to a fire pump.

§ 108.419 Fire main capacity.

The diameter of the fire main must be sufficient for the effective distribution of the maximum required discharge from two fire pumps operating simultaneously.

§ 108.421 Location of fire pumps and associated equipment.

Each fire pump required by § 108.415, and the source of power, controls, sea connections for the fire

pump, and booster pumps, if installed, must be installed in locations where, if a fire occurs in an enclosed space, all of the fire pumps on the unit are not made inoperative, except that if compliance with this requirement is impracticable, a gas type extinguishing system may be installed to protect at least one of the fire pumps, its source of power, and controls.

**§ 108.423 Fire hydrants and associated equipment.**

(a) A fire main system must have enough fire hydrants so that each accessible space may be sprayed with at least two spray patterns of water.

(b) In a main machinery space, except a shaft alley with no assigned space for stowage of combustibles, each spray pattern of water must be from one length of fire hose and each must be from a separate outlet. In all other spaces at least one spray pattern of water must be from one length of fire hose.

(c) No outlet on a fire hydrant may point above the horizontal.

(d) Each fire hydrant must have at least one spanner and at least one fire hose rack or reel.

**§ 108.425 Fire hoses and associated equipment.**

(a) Each length of fire hose in a fire main system must be—

(1) Of 1½ or 2½ inch nominal hose size diameter;

(2) Of 50 foot nominal hose size length; and

(3) Lined commercial fire hose that meets Standard 19 of the Underwriters' Laboratories, Inc., (1971 edition) or Federal Specification ZZ-H-451f.

(b) Each fire hose coupling must—

(1) Be made of brass, bronze, or material that has corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have 9 National Standard Fire-hose Coupling (NSFC) threads per inch for 1½ inch hose or 7½ NSFC threads per inch for 2½ inch hose.

(c) Each nozzle for a fire hose in a fire main system must be a combination solid stream and water spray fire hose nozzle that is approved under Subpart 162.027 of this chapter.

(d) A low velocity spray applicator approved under Subpart 162.027 of this chapter is required at each fire hydrant serving—

(1) Machinery spaces containing oil fired boilers, internal combustion machinery or oil fuel units; and

(2) Helicopter decks.

**§ 108.427 International shore connection.**

A fire main system on a unit in international service must have—

(a) at least one international shore connection that meets the require-

ments in Subpart 162.034 of this Chapter;

(b) a cutoff valve and check valve for each connection; and

(c) facilities available enabling the connection to be used on either side of the unit.

**§ 108.429 Fire main system protection.**

(a) Each pipe and fire hydrant in a fire main system must be installed to the extent practicable in locations that are not exposed to damage by materials that are moved on or onto the deck.

(b) Each part of the fire main system located on an exposed deck must either be protected against freezing or be fitted with cutout valves and drain valves to shut off and drain the entire exposed system in freezing weather.

**FIXED CARBON DIOXIDE FIRE EXTINGUISHING SYSTEMS**

**§ 108.431 CO<sub>2</sub> systems: general.**

(a) Sections 108.431 through 108.457 apply to high pressure carbon dioxide fire extinguishing systems.

(b) Low pressure systems, that is, those in which the carbon dioxide is stored in liquid form at low temperature, must be approved by the Commandant.

**§ 108.433 Quantity of CO<sub>2</sub>: general.**

Each CO<sub>2</sub> system must have enough gas to meet the quantity requirements of § 108.439 for the space requiring the greatest amount of CO<sub>2</sub>.

**§ 108.435 CO<sub>2</sub> for enclosed ventilation systems for rotating electrical equipment.**

(a) The number of pounds of CO<sub>2</sub> required for the initial charge to protect enclosed ventilation systems for rotating electrical equipment must be equal to the gross volume measured in cubic feet of the system divided by—

(1) 10 systems having a volume less than 57 cubic meters (2,000 cubic feet), or

(2) 12 for systems having a volume of 57 cubic meters (2,000 cubic feet) or more.

(b) In addition to the CO<sub>2</sub> required for the initial charge, the system must have enough CO<sub>2</sub> for delayed charges to maintain at least a 25 percent concentration until the equipment can be stopped, unless the initial charge is enough to maintain a 25 percent concentration.

**§ 108.437 Pipe sizes and discharges rates for enclosed ventilation systems for rotating electrical equipment.**

(a) The minimum pipe size for the initial charge must meet table 108.441 and the discharge of the required amount of CO<sub>2</sub> must be completed within 2 minutes.

(b) The minimum pipe size for the delayed discharge must be at least 1.25 centimeters (½ inch) standard pipe.

(c) The pipe used for the initial discharge must not be used for the delayed discharge, except systems having a volume of less than 57 cubic meters (2,000 cubic feet).

**§ 108.439 Quantity of CO<sub>2</sub> for protection of spaces.**

(a) The number of pounds of CO<sub>2</sub> required to protect a space must be equal to the gross volume of the space divided by the appropriate factor from Table 108.439.

(b) If a machinery space includes a casing, the gross volume of the space may be calculated using the reductions allowed in 46 CFR 95.10-5(e).

(c) If fuel can drain from a space to an adjacent space or if two spaces are not entirely separate, the requirements for both spaces must be used to determine the amount of CO<sub>2</sub> to be provided and the CO<sub>2</sub> system must be arranged to discharge into both spaces simultaneously.

TABLE 108.439.—CO<sub>2</sub> Supply Factors

[Gross volume of space in cubic feet]

Over	Not over	Factor
0	500	15
500	1,600	16
1,600	4,500	18
4,500	50,000	20
50,000		22

**§ 108.441 Piping and discharge rates for CO<sub>2</sub> systems.**

(a) The size of branch lines to spaces protected by a CO<sub>2</sub> system must meet Table 108.441.

(b) Distribution piping within a space must be proportioned from the supply line to give proper distribution to the outlets without throttling.

(c) The number, type, and location of discharge outlets must distribute the CO<sub>2</sub> uniformly throughout the space.

TABLE 108.441.—CO<sub>2</sub> System Pipe Size

CO <sub>2</sub> supply in system, kilograms (pounds)	Minimum pipe size (inches), millimeters (inches)
45 (100)	12.7 (½)
104 (225)	19.05 (¾)
136 (300)	25.4 (1)
272 (600)	31.75 (1¼)
450 (1,000)	38.10 (1½)
1,110 (2,450)	50.80 (2)
1,130 (2,500)	63.5 (2½)
2,023 (4,450)	76.2 (3)
3,229 (7,100)	88.9 (3½)
4,750 (10,000)	101.6 (4)
6,818 (15,000)	114.3 (4½)

(d) The total area of all discharge outlets must be more than 35 percent and less than 85 percent of the nominal cylinder outlet area or the area of

the supply pipe, whichever is smaller. The nominal cylinder outlet area in square centimeters is determined by multiplying the factor 0.0313 by the number of kilograms of CO<sub>2</sub> required. (The nominal cylinder outlet area in square inches is determined by multiplying the factor 0.0022 by the number of pounds of CO<sub>2</sub> required). The nominal cylinder outlet area must not be less than 71 square millimeters (0.110 square inches).

(e) A CO<sub>2</sub> system must discharge at least 85 percent of the required amount within 2 minutes.

§ 108.443 Controls and valves.

(a) At least one control for operating a CO<sub>2</sub> system must be outside the space or spaces that the system protects and in a location that would be accessible if a fire occurred in any space that the system protects. Control valves must not be located in a protected space unless the CO<sub>2</sub> cylinders are also in the protected space.

(b) A CO<sub>2</sub> system that protects more than one space must have a manifold with a stop valve, the normal position of which is closed, that directs the flow of CO<sub>2</sub> to each protected space.

(c) A CO<sub>2</sub> system that protects only one space must have a stop valve installed between the cylinders and the discharge outlets in the system, except on a system that has a CO<sub>2</sub> supply of 136 kilograms (300 pounds) or less.

(d) At least one of the control stations in a CO<sub>2</sub> system that protects a machinery space must be as near as practicable to one of the main escapes from that space.

(e) All distribution valves and controls must be of an approved type.

(f) Each CO<sub>2</sub> system that has a stop valve must have a remote control that operates only the stop valve and must have a separate remote control for releasing the required amount of CO<sub>2</sub> into the space protected by the system.

(g) Each CO<sub>2</sub> system that does not have a stop valve must be operated by a remote control that releases the required amount of CO<sub>2</sub> into the space protected by the system.

(h) Remote controls to each space must be in an enclosure.

(i) Each system must have a manual control at its cylinders for releasing CO<sub>2</sub> from the cylinders, except that if the system has pilot cylinders, a manual control is not required for other than pilot cylinders.

(j) If gas pressure is used to release CO<sub>2</sub> from a system having more than 2 cylinders, the system must have at least 2 pilot cylinders to release the CO<sub>2</sub> from the remaining cylinders.

(k) If the entrance to a space containing the CO<sub>2</sub> supply or controls of a CO<sub>2</sub> system has a lock, the space must have a key to the lock in a break-glass

type box that is next to and visible from the entrance.

§ 108.445 Alarm and means of escape.

(a) Each CO<sub>2</sub> system that has a supply of more than 136 kilograms (300 pounds) of CO<sub>2</sub>, except a system that protects a tank, must have an alarm that sounds for at least 20 seconds before the CO<sub>2</sub> is released into the space.

(b) Each audible alarm for a CO<sub>2</sub> system must have the CO<sub>2</sub> supply for the system as its source of power and must be in a visible location in the spaces protected.

§ 108.447 Piping.

(a) Each pipe, valve, and fitting in a CO<sub>2</sub> system must have a bursting pressure of at least 420 kilograms per square centimeter (6,000 pounds per square inch).

(b) All piping for a CO<sub>2</sub> system of nominal size of 19.05 millimeters (¾ inch) inside diameter or less must be at least Schedule 40 (standard weight) and all piping of nominal size over 19.05 millimeters (¾ inch) inside diameter must be at least Schedule 80 (extra heavy).

(c) Each pipe, valve, and fitting made of ferrous materials in a CO<sub>2</sub> system must be protected inside and outside from corrosion.

(d) Each CO<sub>2</sub> system must have a pressure relief valve set to relieve between 168 and 196 kilograms per square centimeter (2,400 and 2,800 pounds per square inch) in the distribution manifold or other location that protects the piping when all branch line shut off valves are closed.

(e) The end of each branch line in a CO<sub>2</sub> system must extend at least 50 millimeters (2 inches) beyond the last discharge outlet and be closed with a cap or plug.

(f) Piping, valves, and fittings in a CO<sub>2</sub> system must be securely supported and protected from damage.

(g) Each CO<sub>2</sub> system must have drains and dirt traps located where dirt or moisture can accumulate in the system.

(h) Discharge piping in a CO<sub>2</sub> system may not be used for any other purpose except as part of a fire detection system.

(i) Piping in a CO<sub>2</sub> system that passes through accommodation spaces must not have drains or other openings within these spaces.

§ 108.449 Piping tests.

(a) Each test prescribed in (b), (c), and (d) of this section must be performed upon completion of the piping installation.

(b) When tested with CO<sub>2</sub> or other inert gas under a pressure of 70 kilograms per square centimeter (1000 pounds per square inch), with no addi-

tional gas introduced into the system, the leakage in the piping from the cylinders to the stop valves in the manifold must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2 minute period.

(c) When tested with CO<sub>2</sub> or other inert gas under a pressure of 42 kilograms per square centimeter (600 pounds per square inch), with no additional gas introduced into the system, the leakage in each branch line must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2-minute period. The distribution piping must be capped within the protected space.

(d) Small independent systems protecting emergency generator rooms, lamp lockers and similar small spaces need not meet the tests prescribed in paragraphs (a) and (b) of this section if they are tested by blowing out the piping with air at a pressure of at least 7 kilograms per square centimeter (100 pounds per square inch).

§ 108.451 CO<sub>2</sub> storage.

(a) Except as provided in paragraph (b) of this section, each cylinder of a CO<sub>2</sub> system must be outside each space protected by the system and in a location that would be accessible if a fire occurred in any space protected by the system.

(b) A CO<sub>2</sub> system that has a CO<sub>2</sub> supply of 136 kilograms (300 pounds) or less may have one or more cylinders in the space protected by the system if the space has a heat detection system to activate the system automatically in addition to the remote and manual controls required by this subpart.

(c) Each space that contains cylinders of a CO<sub>2</sub> system must be ventilated and designed to prevent an ambient temperature of more than 54° C. (130° F.)

(d) Each cylinder in a CO<sub>2</sub> system must be securely fastened, supported, protected from damage, in an accessible location, and capable of removal from that location.

(e) Each unit must have a means for weighing cylinders of a CO<sub>2</sub> system.

(f) A cylinder in a CO<sub>2</sub> system may not be mounted in a position that is inclined more than 30° from a vertical position, except that a cylinder having flexible or bent siphon tubes may be mounted in a position that is inclined up to 80° from the vertical. The bottom of each cylinder when mounted must be at least 5 centimeters (2 inches) from the deck.

(g) If a cylinder does not have a check valve on its independent cylinder discharge, it must have a plug or cap to close the outlet when the cylinder is moved.

(h) Each CO<sub>2</sub> system cylinder must be made, tested, and marked in accordance with 46 CFR 147.04-1.

#### § 108.453 Discharge outlets.

Each discharge outlet must be of an approved type.

#### § 108.455 Enclosure openings.

(a) Mechanical ventilation for spaces protected by a CO<sub>2</sub> system must be designed to shut down automatically when the system is activated.

(b) Each space that is protected by a CO<sub>2</sub> system and that has natural ventilation must have a means for closing that ventilation.

(c) Each space protected by a CO<sub>2</sub> system must have the following means for closing the openings to the space from outside the space:

(1) Doors, shutters, or dampers for closing each opening in the lower portion of the space.

(2) Doors, shutters, dampers or temporary means such as canvas or other material normally on board a unit may be used for closing each opening in the upper portion of the space.

#### § 108.457 Pressure release.

Each air tight or vapor tight space, such as a paint locker, that is protected by a CO<sub>2</sub> system must have a means for releasing pressure that accumulates within the space if CO<sub>2</sub> is discharged into the space.

#### *Halogenated Gas Extinguishing System*

#### § 108.458 General.

Halogenated gas extinguishing systems may be installed if approved by the Commandant.

#### FOAM EXTINGUISHING SYSTEMS

#### § 108.459 Number and location of outlets.

(a) A foam extinguishing system in a space must have enough outlets to spread a layer of foam of uniform thickness over the deck or bilge areas of the space.

(b) A foam extinguishing system in a space that has a boiler on a flat that is open to or can drain into a lower portion of the space must have enough outlets to spread a layer of foam of uniform thickness over the—

(1) Flat; and

(2) Deck or bilge areas of the space.

(c) A foam extinguishing system for a tank must have enough outlets to spread a layer of foam of uniform thickness over the surface of the liquid in the tank.

#### § 108.461 Coamings.

Each machinery flat in a space that has a foam extinguishing system must have coamings that are high enough to retain spilled oil and foam on the

flat on all openings except deck drains.

#### § 108.463 Foam rate: Protein.

(a) If the outlets of a protein foam extinguishing system are in a space, the foam rate at each outlet must be at least 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered by the systems.

(b) If the outlets of a protein foam extinguishing system are in a tank, the foam rate at each outlet must be at least 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of liquid surface in the tank.

#### § 108.467 Water supply.

The water supply of a foam extinguishing system must not be the water supply of the fire main system on the unit unless when both systems are operated simultaneously—

(a) The water supply rate to the foam production equipment meets the requirements of this section; and

(b) Water supply rate to the fire hydrants required by § 108.415 of this subpart allows compliance with the pressure requirement in that section.

#### § 108.469 Quantity of foam producing materials.

(a) Except as provided in paragraph (b) of this section, each foam extinguishing system with outlets—

(1) In a tank must have enough foam producing material to discharge foam for at least 5 minutes at each outlet; and

(2) In a space must have enough foam producing material to discharge foam for at least 3 minutes at each outlet.

(b) If a foam system has outlets in more than one tank or space, the system need have only enough foam producing material to cover the largest space that the system covers or, if the liquid surface of a tank covered by the system is larger, the tank with the largest liquid surface.

#### § 108.471 Water pump.

Each water pump in a foam extinguishing system must be outside each machinery space in which the system has outlets and must not receive power from any of those spaces.

#### § 108.473 Foam system components.

(a) Each foam agent, each tank for a foam agent, each discharge outlet, each control, and each valve for the operation of a foam extinguishing system must be approved by the Commandant.

(b) Each foam agent tank and each control and valve for the operation of a foam extinguishing system with outlets in a space must be outside the space and must not be in a space that

may become inaccessible if a fire occurs in the space.

(c) Each control for a foam extinguishing system with outlets in a space must be near a main escape from the space.

#### § 108.474 Aqueous film forming foam systems.

Aqueous film forming foam systems may be installed if approved by the Commandant.

#### § 108.475 Piping.

(a) Each pipe, valve, and fitting in a foam extinguishing system must meet the applicable requirements in Subchapter F of this chapter.

(b) Each pipe, valve, and fitting made of ferrous material must be protected inside and outside from corrosion.

(c) Each pipe, valve, and fitting must have support and protection from damage.

(d) Each foam extinguishing system must have enough—

(1) Dirt traps to prevent the accumulation of dirt in its pipes; and

(2) Drains to remove liquid from the system.

(e) Piping in a foam extinguishing system must be used only for discharging foam.

#### § 108.477 Fire hydrants.

(a) If a fixed foam extinguishing system has outlets in a main machinery space, at least 2 fire hydrants, in addition to the fire hydrants required by § 108.423 of this subpart, must be installed outside the entrances to the space with each at a separate entrance.

(b) Each hydrant must have enough hose to spray any part of the space.

(c) Each hydrant must have a combination nozzle and applicator.

#### FIRE PROTECTION FOR HELICOPTER FACILITIES

#### § 108.486 Helicopter decks.

At least two of the accesses to the helicopter landing deck must each have a fire hydrant on the unit's fire main system located next to them.

#### § 108.487 Helicopter deck fueling operations.

(a) Each helicopter landing deck on which fueling operations are conducted must have a fire protection system that discharges protein foam or aqueous film forming foam.

(b) A system that only discharges foam must—

(1) Have enough foam agent to discharge foam continuously for at least 5 minutes at maximum discharge rate;

(2) Have at least the amount of foam agent needed to cover an area equivalent to the swept rotor area of the

largest helicopter for which the deck is designed with foam at—

(i) If protein foam is used, 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes;

(ii) If aqueous film forming foam is used, 4.07 liters per minute for each square meter (.1 gallons per minute for each square foot) of area covered for five minutes; and

(3) Be capable of discharging from each hose at 7 kilograms per square centimeter (100 pounds per square inch) pressure—

(i) A single foam stream at a rate of at least 340 liters (90 gallons) per minute; and

(ii) A foam spray at a rate of at least 190 liters (50 gallons) per minute.

(c) Each system must have operating controls at each of its hose locations, be protected from icing and freezing, and be capable of operation within 10 seconds after activation of its controls.

(d) Each system must have at least one hose at each of the two access routes required by § 108.235(f) of this Part. Each hose must be reel mounted and long enough to cover any point on the helicopter deck. Each hose that discharges foam must have a nozzle that has foam stream, foam spray, and off positions.

§ 108.489 Helicopter fueling facilities.

(a) Each helicopter fueling facility must have a fire protection system that discharges one of the following agents in the amounts prescribed for the agents over the area of the fuel containment systems around marine portable tanks, fuel transfer pumps and fuel hose reels:

(1) Protein foam at the rate of 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes.

(2) Aqueous film forming foam at the rate of 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of area covered for five minutes.

(3) 22.5 kilograms (50 pounds) of dry chemical (B-V semi-portable) for each fueling facility of up to 27.87 square meters (300 square feet).

(b) If the fire protection system required by § 108.487 of this subpart is arranged so that it covers both a helicopter fueling facility and a landing deck, the system must have the quantity of agents required by this section in addition to the quantity required by § 108.487.

HAND PORTABLE AND SEMI-PORTABLE FIRE EXTINGUISHING SYSTEMS

§ 108.491 General.

Each hand portable and semi-portable fire extinguisher on a unit must be

approved under Subpart 162.028 or 162.039 of this chapter.

§ 108.493 Location.

(a) Each unit must have the hand portable and semi-portable fire extinguishers prescribed in Table 108.495(a) of this subpart and installed in the locations prescribed in the table.

(b) Each portable and semi-portable fire extinguisher must be visible and readily accessible.

(c) The location, size, and number of each portable and semi-portable fire extinguisher on a unit must be acceptable to the appropriate OCMI. The OCMI may require extinguishers in addition to those prescribed in Table 108.495(a) if he considers them necessary for fire protection on the unit.

(d) Each hand portable and semi-portable fire extinguisher that has a nameplate which states that it is to be protected from freezing, must be located where freezing temperatures do not occur.

§ 108.495 Spare charges.

(a) Each unit must have enough spare charges for 50 percent of the hand portable fire extinguishers required under Table 108.495(a) of this subpart that are rechargeable by personnel on the unit.

(b) If a unit has extinguishers that cannot be recharged by personnel on unit, it must also have at least one spare extinguisher for each classification and variety of those extinguishers.

TABLE 108.495(a).—Hand Portable Fire Extinguishers and Semiportable Fire-Extinguishing Systems

Space	Classification (see table 108.495(b))	Quantity and location
<b>SAFETY AREAS</b>		
Wheelhouse and control room.....	C-I.....	2 in vicinity of exit.
Stairway and elevator enclosure.....		None required.
Corridors.....	A-II.....	1 in each corridor not more than 150 ft (45 m) apart. (May be located in stairways.)
Lifeboat embarkation and lowering stations.....		None required.
Radio room.....	C-I.....	2 in vicinity of exit.
<b>ACCOMMODATIONS</b>		
Staterooms, toilet spaces, public spaces, offices, lockers, small storerooms, and pantries, open decks, and similar spaces.....		None required.
<b>SERVICE SPACES</b>		
Galley.....	B-II or C-II.....	1 for each 2,500 ft <sup>2</sup> (232 m <sup>2</sup> ) or fraction thereof suitable for hazards involved.
Paint and lamp rooms.....	B-II.....	1 outside each room in vicinity of exit.
Storerooms.....	A-II.....	1 for each 2,500 ft <sup>2</sup> (232 m <sup>2</sup> ) or fraction thereof located in vicinity of exits, either inside or outside the spaces.
Work shop and similar spaces.....	C-II.....	1 outside each space in vicinity of an exit.
<b>MACHINERY SPACES</b>		
Oil-fired boilers: Spaces containing oil-fired boilers, either main or auxiliary, or their fuel oil units.....	B-II.....	2 required in each space.
Internal combustion or gas turbine propelling machinery spaces.....	B-V.....	1 required in each space.
	B-II.....	1 for each 1,000 brake horsepower but not less than 2 nor more than 6 in each space.
	B-III.....	1 required in each space. See note 1.
Motors or generators of electric propelling machinery that do not have an enclosed ventilating system.....	C-II.....	1 for each motor or generator.
Motors and generators of electric propelling machinery that have enclosed ventilating systems.....		None required.
<b>AUXILIARY SPACES</b>		
Internal combustion engines or gas turbine.....	B-II.....	outside the space containing engines or turbines in vicinity of exit.
Electric emergency motors or generators.....	C-II.....	1 outside the space containing motors or generators in vicinity of exit.
Steam driven auxiliary machinery.....		None required.
Trunks to machinery spaces.....		Do.
Fuel tanks.....		Do.
<b>MISCELLANEOUS AREAS</b>		
Helicopter landing decks.....	B-V.....	1 at each access route.
Helicopter fueling facilities.....	B-IV.....	1 at each fuel transfer facility. See note 2.
Drill floor.....	C-II.....	2 required.
Cranes with internal combustion engines.....	B-II.....	1 required.

NOTE.—1. Not required where a fixed gas extinguishing system is installed.  
2. Not required where a fixed foam system is installed in accordance with sec. 108.489 of this subpart.

TABLE 108.495(b)

Classification: Type and size		Water liters (gallons)	Foam liters (gallons)	Carbon dioxide kilograms (pounds)	Dry chemical kilograms (pounds)	Halon 1211 kilograms (pounds)
A	II	9.5 (2½)	9.5 (2½)	2.25 (5)²		
B	I	4.7 (1¼)	4.7 (1¼)	1.8 (4)	0.9 (2)	1.1 (2½)
B	II	9.5 (2½)	9.5 (2½)	6.7 (15)	4.5 (10)	4.5 (10)²
B	III	45.5 (12)	45.5 (12)	15.8 (35)	9.0 (20)	
B	IV	7.6 (20)	7.6 (20)	22.5 (50)	13.5 (30)	
B	V	152 (40)	152 (40)	45 (100)¹	22.5 (50)⁴	
C	I			1.8 (4)	0.9 (2)	
C	II			6.7 (15)	4.5 (10)	
C	III			15.8 (35)	9.0 (20)	
C	IV			22.5 (50)	13.5 (30)	

NOTE 1.—Fire extinguisher are designed by type as follows: (a) "A" for fires in combustible materials such as wood, (b) "B" for fires in flammable liquids and greases, (c) "C" for fires in electrical equipment.

2.—Fire extinguishers are designated by size where size "I" is the smallest and size "V" is the largest. Sizes "I" and "II" are hand-portable extinguishers and sizes "III", "IV", and "V" are semiportable extinguishers.

3.—Must be specifically approved as a type A, B, or C extinguisher.

4.—For outside use, double the quantity of agent that must be carried.

5.—For outside use only.

#### MISCELLANEOUS FIREFIGHTING EQUIPMENT

##### § 108.497 Fireman's outfits.

Each unit must have at least 2 fireman's outfits. Each fireman's outfit on a unit must consist of—

(a) A self-contained breathing apparatus approved under § 160.011 of this chapter;

(b) A three-cell, explosion proof flashlight with the Underwriter's Laboratories, Inc., label and set of spare batteries for the flashlight;

(c) An oxygen and explosive meter with the Underwriter's Laboratories, Inc. label or the Factory Mutual label;

(d) A lifeline that—

(1) Is attached to the self-contained breathing apparatus;

(2) Is made of bronze wire rope, inherently corrosion resistant steel wire rope, or galvanized or tinned steel wire rope;

(3) Is made up of enough 15.2 meters (50 foot) or greater lengths of wire rope to permit use of the outfit in any location on the unit;

(4) Has each end fitted with a hook with a 16 millimeters (¾ inch) throat opening for the keeper; and

(5) Has a minimum breaking strength of 680 kilograms (1,500 pounds).

(e) Boots and gloves that are made of rubber or other electrically non-conductive material;

(f) A helmet that meets the requirements in ANSI standard Z-89.1-1969; and

(g) Clothing that protects the skin from scalding steam and the heat of fire and that has a water resistant outer surface.

##### § 108.499 Fire axes.

Each unit must have at least two fire axes.

#### Subpart E—Lifesaving Equipment

##### § 108.501 Survival capsule.

For the purposes of this subchapter, the term lifeboat includes survival capsules.

##### § 108.503 Lifeboats.

(a) Each unit with 30 persons or less allowed on board must have at least one lifeboat. Each unit with more than 30 persons allowed on board must have at least two lifeboats. The total number of lifeboats on a unit must accommodate all personnel on board.

(b) Each lifeboat on a unit must be approved under Subpart 160.035 of this chapter.

(c) Each lifeboat on a unit must be motor propelled and have a permanently installed rigid enclosure of international orange that provides protection from exposure and fire during operation of the lifeboat.

(d) Each lifeboat on a unit must have the equipment required by § 94.20-10 of this Chapter for a lifeboat on an ocean or coastwise vessel other than a seagoing barge, except that the following equipment is not required:

(1) Ditty bag.

(2) Lantern if the lifeboat has equivalent interior lighting.

(3) Illuminating oil, if the lifeboat does not carry a lantern.

(4) Protecting cover.

(e) In addition to the equipment listed in paragraph (d), the following equipment is not required for each lifeboat on a unit which is not in international service:

(1) Condensed milk.

(2) Oars.

(3) Storm oil.

(4) Provisions.

(5) Rowlocks.

(f) Each lifeboat must have a list of the equipment it is required to carry. Except for boat hooks, the equipment and list must be securely stowed in the lifeboat. The equipment required by paragraph (d) must meet the requirements of § 94.20-15 of this Chapter.

(g) Each unit must have a manual for each lifeboat containing the following detailed information:

(1) Instructions for launching the lifeboat.

(2) Instructions for operating the lifeboat, its accessories, and its equipment.

(3) Maintenance and repair instructions.

(4) Schedule of periodic maintenance.

(5) Diagram of lubrication points with recommended lubricants.

(6) List of replaceable parts.

(7) List of sources of repair parts.

(8) Log of records of inspections and maintenance.

##### § 108.505 Liferrafts.

(a) Each unit must have enough inflatable liferafts to accommodate at least 100% of the persons allowed on board.

(b) Each inflatable liferaft on a unit must—

(1) be approved under Subpart 160.051 of this chapter as an inflatable liferaft intended for an ocean service vessel; and

(2) have a carrying capacity of not less than 6 nor more than 25 persons.

(c) Lifeboats in addition to those required by § 108.503 may be substituted for inflatable liferafts.

##### § 108.506 Lifeboat and liferaft launching capability.

(a) Each lifeboat and liferaft on a surface type unit must be capable of

being launched to the water at the minimum operating draft when the unit has an adverse list up to 15° or trim up to 10°.

(b) Each lifeboat and liferaft on a non-surface type unit must be capable of being launched to the water at the maximum operating height above the water when the unit has an adverse list and trim, the amount of which is determined by the characteristics of the unit.

(c) Each liferaft on a unit which is launched from a position more than 3 meters (10 ft.) above the water must be davit launched.

**§ 108.507 Launching equipment for lifeboats.**

(a) Each unit must have the following launching equipment for each lifeboat:

(1) Mechanical disengaging apparatus that is approved under Subpart 160.033 of this chapter.

(2) Gravity davits that are approved under Subpart 160.032 of this chapter.

(3) A winch that is approved under Subpart 160.015 of this chapter.

(4) A means to hold the lifeboat steady in a location that allows the full complement to board the boat prior to launching.

(5) Wire falls that are—

(i) Equal or superior to 6 x 19 regular lay filler wire, pre-lubricated during construction;

(ii) Not more than 2 part falls; and

(iii) Designed to have a minimum breaking strength of at least six times the maximum working load.

(6) Blocks, if necessary to allow the falls to lead freely from the drum of the winch, that—

(i) Have sheaves each with a diameter measured from the base of the groove in the sheave that is at least 12 times as large as the diameter of the fall passing over the sheave;

(ii) Have a means to lubricate the moving parts of the blocks; and

(iii) Are designed to have a minimum breaking strength of at least six times the maximum working load.

(b) The lowering mechanism for the lifeboat must be operative from the lifeboat and from the unit.

(c) Each exposed wire fall on a unit must have a cover or means of protection from damage or fouling.

(d) The winch controls on the unit must be located where the operator can observe the lifeboat launching.

**§ 108.508 Launching equipment for davit launched inflatable liferafts.**

(a) Each unit must have the following launching equipment at each launching station:

(1) Winches that are approved by the Commandant (G-MMT).

(2) Mechanical disengaging apparatus that is approved by the Commandant (G-MMT).

(3) Davits that are approved by the Commandant (G-MMT).

(4) Load bearing components that meet §§ 108.507(a)(5), 108.507(c), and 108.509.

(5) A means to hold the liferaft in a location that allows a person to enter the liferaft.

(6) A means to rapidly retrieve the falls if the station has more than one liferaft.

(b) The launching equipment must be capable of being operated by a person in the liferaft and a person on the unit.

(c) The winch controls on the unit must be located where the operator can observe the liferaft launching.

(d) The launching equipment must be arranged so that a loaded liferaft does not have to be lifted before it is lowered.

(e) Not more than two liferafts may be launched from the same set of launching equipment.

**§ 108.509 Wire fall fleet angle.**

(a) "Fleet angle" is the angle made by two lines that intersect at the center of the sheave. One line is perpendicular to the axis of the drum and the other passes through either end of the drum at its axis.

(b) The portion of a wire fall between the drum of a winch on a unit and the first sheave over which the wire fall passes must have a fleet angle that is less than 8 degrees if the drum is a grooved drum and less than 4 degrees if the drum is a nongrooved drum.

**§ 108.510 Hydrostatic releases.**

Each inflatable liferaft that is not intended for davit launching must have—

(a) A hydrostatic release approved under Subpart 160.062 of this chapter; or

(b) A means to ensure that the liferaft will float free if the unit sinks.

**§ 108.511 Lifeboat and liferaft arrangement.**

The lifeboats and liferafts on a unit must be arranged—

(a) To provide ready access to them;

(b) So that a fire or other casualty does not immobilize all lifeboats and liferafts;

(c) So that they are accessible for inspection, maintenance, and testing;

(d) In locations clear of overboard discharge lines, propellers, and hull obstructions; and

(e) In locations to launch as designed.

**§ 108.514 Life preservers.**

(a) Each unit must have enough adult life preservers for 125% of the persons allowed on board.

(b) Each unit must have lockers, boxes, closets, shelves, or racks in readily accessible locations in berthing areas, watch stations, or other work areas for the stowage of life preservers. The stowage containers must not be capable of being locked.

(c) Each life preserver on a unit must be approved under Subpart 160.002, 160.005, or 160.055 of this chapter as a Type I—personal flotation device.

(d) Each life preserver on a unit must have a whistle that is—

(1) Of a ball-type;

(2) Corrosion resistant; and

(3) Attached to the life preserver by a 1 meter (3 foot) lanyard that—

(i) Does not have hooks, snaps, clips, or other metal connecting devices;

(ii) Allows the whistle to extend at least 38 centimeters (15 inches) from the top of the life preserver; and

(iii) Is coiled and bound with breakable thread.

**§ 108.515 Ring life buoys.**

(a) Each unit must have at least eight ring life buoys and mounting racks.

(b) Each ring life buoy on a unit must—

(1) Have a mounting rack that secures the buoy and allows it to be easily removed from the rack;

(2) Be approved under Subpart 160.009 or 160.050 of this chapter.

(c) At least four ring life buoys on a unit must each have a waterlight attached to the buoy by a 1 to 2 meters (3 to 6 foot) lanyard. Each waterlight must be approved under Subpart 161.012 of this chapter.

(d) At least two ring life buoys that have water light must each—

(1) Have a smoke signal approved under Subpart 160.057 of this chapter that self-activates when the ring life buoy is released from its mounting rack;

(2) Have a releasing mechanism that can be operated from the bridge, except that if the bridge is not continuously manned the mechanism must be capable of operation from a location authorized by the OCMI; and

(3) Be mounted in a location where the buoy, if released by the releasing mechanism, will drop into the water.

(e) At least one ring life buoy on each side of the unit, excluding those required by paragraph (d), must have a buoyant line attached to the buoy that is 1½ times the distance from the buoy to the design waterline of the unit or 15 fathoms in length, whichever is greater. The end of the line must not be secured to the unit.

(f) Each ring life buoy on a unit must be readily accessible to persons on board.

#### § 108.517 Line throwing appliance.

(a) Each unit on an international voyage must have at least one impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter.

(b) Each unit not on an international voyage must have—

(1) An impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter; or

(2) A shoulder type line throwing gun approved under Subpart 160.031 of this chapter.

#### § 108.519 Portable radio apparatus.

Each unit on an international voyage must have a portable radio apparatus that meets the requirements of the Federal Communications Commission.

#### § 108.521 Distress signals.

(a) Each unit must have at least 12 hand held, rocket-propelled, parachute, red flare, distress signals. Each distress signal on a unit must be approved under Subpart 160.036 of this chapter.

(b) Each distress signal must be stowed in a portable, watertight, and noncorrosive container on the bridge or, if the unit does not have a bridge, in the control room.

#### § 108.523 EPIRB.

Each self-propelled unit must have an Class A emergency position indicating radio beacon (EPIRB). Each EPIRB on a unit must be approved under Subpart 161.011 of this chapter.

#### § 108.525 Means of embarkation.

(a) Except as provided in paragraph (c), each unit must have a chain suspension ladder approved under subpart 160.017 of this chapter for each lifeboat and liferaft launching station.

(b) Each chain suspension ladder must extend to the unit's lightwaterline the unit at a 15 degree list away from the side where the ladder is installed.

(c) If a chain suspension ladder cannot be supported against a vertical flat surface, a fixed ladder must be installed; however no more than four fixed ladders are required.

(d) Each inclined fixed ladder must—

(1) be at least 71 centimeters (28 inches) wide; and

(2) have a pitch of 50° or less.

(e) Each vertical fixed ladder must meet the requirements of § 108.160 for Fixed Ladders, except that vertical bars in cages must be open at least 50

centimeters (20 inches) on one side for the length of the ladder.

#### § 108.527 Additional means of abandonment.

Portable slides, safety booms, moveable ladders, elevators, and other means of abandonment may be installed if approved by the Commandant.

### Subpart F—Cranes and Power Operated Industrial Trucks

#### CRANES

#### § 108.601 Crane design.

(a) Each crane and crane foundation on a unit must be designed in accordance with the American Petroleum Institute Specification for Offshore Cranes, API Spec. 2C, Second Edition, February, 1972 (with supplement 2).

(b) In addition to the design requirements of paragraph (a), each crane must have the following:

(1) Each control marked to show its function.

(2) Instruments with built-in lighting.

(3) Fuel tank fills and overflows that do not run onto the engine exhaust.

(4) No gasoline engines.

(5) Spark arrestors fitted on engine exhaust pipes.

#### POWER OPERATED INDUSTRIAL TRUCKS

#### § 108.611 Power operated industrial trucks: definition.

For the purposes of § 108.613 through § 108.615, "power industrial truck" means a tractor, lift truck, or specialized industrial truck used for material handling on a unit.

#### § 108.613 Power operated industrial trucks.

(a) Each power operated industrial truck used on a unit must have a type designation as follows:

(1) "E"—electrically powered trucks that have safeguards against inherent sources of ignition.

(2) "EE"—electrically powered trucks that have the requirements for "E" trucks, and completely enclosed electric motors and equipment.

(3) "EX"—electrically powered trucks whose electrical fittings and equipment are designed, constructed, and assembled to permit the trucks to be used in atmospheres containing flammable vapors or dusts.

(4) "D"—diesel powered trucks that have safeguards against inherent sources of ignition.

(5) "DS"—diesel powered trucks that are provided with safeguards to the exhaust, fuel, and electrical systems not provided on a "D" truck.

(b) Each power operated industrial truck used on a unit must be approved

and designated by a testing laboratory listed in paragraph (c) of this section.

(c) The following testing laboratories are accepted for the purposes of this section:

(1) Underwriters' Laboratories, Inc., P.O. Box 247, Northbrook, Illinois, 60092.

(2) Factory Mutual Laboratories Engineering Division, 1115 Boston Providence Turnpike, Norwood, Massachusetts 02062.

(d) Each power operated industrial truck used on a unit must have at least the following safety features:

(1) A warning device that can be heard above normal background noises.

(2) A driver's overhead guard if, during normal operations, the operator may be exposed to falling objects.

(3) If the truck has a fork lift—

(i) A vertical load back rest extension or rack to prevent the load from falling toward the driver when the mast is in a position of maximum backward tilt;

(ii) A means of securing the forks to the carriage to prevent unintentional lifting of the toe;

(iii) A means of securing fork extensions and other attachments to prevent lifting or displacement on the primary forks; and

(iv) A factor of safety for the forks of at least three to one, based on the elastic limit of the fork material.

(4) Guards on each exposed wheel to prevent the wheel from throwing particles at the operator.

(5) Steering controls that are—

(i) Within the clearances of the truck; or

(ii) Guarded so that movement of the controls will not result in injury to the operator when the truck is passing an obstruction.

(e) A steering knob may be mounted within the perimeter of the wheel, if used on a steering mechanism that allows the wheel to spin as a result of road action. The steering knob must be—

(1) A mushroom type that engages the palm of the operator's hand; or

(2) Arranged in some other manner to prevent injury to the operator.

#### § 108.615 Charging facilities for battery powered industrial trucks.

Each supply or charging circuit for charging batteries of powered industrial trucks must be connected to the truck by a portable plug that is—

(a) Break away type; and

(b) Connected to the charging outlet so that any movement of the truck away from the charging station—

(1) Breaks the connection;

(2) Does not expose any live parts to contact with a conducting surface or object; and

(3) Does not allow the plug to fall on to the deck.

**Subpart G—Equipment Markings and Instructions**

§ 108.621 Equipment markings: general.

Unless otherwise provided, each marking required in this subpart must be—

- (a) Printed in English;
- (b) In red letters with a contrasting background;
- (c) Permanent;
- (d) Easy to be seen;
- (e) At least 1.3 centimeters (½ inch) in height.

§ 108.623 General alarm bell switch.

Each general alarm bell switch must be marked "GENERAL ALARM" on a plate or other firm noncorrosive backing.

§ 108.625 General alarm bell.

Each general alarm bell must be identified by marking "GENERAL ALARM—WHEN BELL RINGS GO TO YOUR STATION" next to the bell.

§ 108.627 Carbon dioxide alarm.

Each carbon dioxide alarm must be identified by marking: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE BEING RELEASED" next to the alarm.

§ 108.629 Fire extinguishing system branch line valve.

Each branch line valve of each fire extinguishing system must be marked with the name of the space or spaces it serves.

§ 108.631 Fixed fire extinguishing system controls.

(a) Each cabinet or space that contains a valve, control, or manifold of a fixed fire extinguishing system must be marked by one of the following: "CARBON DIOXIDE FIRE APPARATUS", "FOAM FIRE APPARATUS", or "WATER SPRAY FIRE APPARATUS" in letters at least 5 centimeters (2 inches) high.

(b) Instructions for the operation of a fixed fire extinguishing system must be posted next to a fire apparatus described in paragraph (a) of this section.

§ 108.633 Fire stations.

Each fire station must be identified by marking: "FIRE STATION NO. —" next to the station in letters and numbers at least 5 centimeters (2 inches) high.

§ 108.635 Self-contained breathing apparatus.

Each locker or space containing self-contained breathing apparatus must

be marked: "SELF CONTAINED BREATHING APPARATUS".

§ 108.636 Work vests.

Each space containing a work vest must be marked: "WORK VEST".

§ 108.637 Hand portable fire extinguishers.

(a) Each hand portable fire extinguisher must be marked with a number that identifies it in relation to all other hand portable fire extinguishers.

(b) The location of each hand portable fire extinguisher must be marked with the same number that is marked on the extinguisher.

§ 108.639 Emergency lights.

Each emergency light must be marked: "E".

§ 108.641 Instructions for changing steering gear.

Instructions stating, in order, the different steps to be taken for changing to emergency and secondary steering gear must be posted in the steering gear room and at each secondary steering station in 1.3 centimeters (½ inch) letters and numerals of contrasting color to the background.

§ 108.643 Rudder orders.

At each steering station, the direction which the wheel or steering device must be moved for right rudder or left rudder must be marked in letters of contrasting color to the background on the wheel or steering device or in a place that is directly in the helmsman's line of vision to indicate "RIGHT RUDDER" and "LEFT RUDDER".

§ 108.645 Lifeboats.

(a) The bow of each lifeboat must be marked in letters and numbers of contrasting color to the background with—

(1) The name and port of registry of the unit in letters at least 7.5 centimeters (3 inches) high;

(2) The number of the boat in numbers at least 7.5 centimeters (3 inches) high; and

(3) The number of persons allowed in the boat in letters and numbers at least 4 centimeters (1½ inches) high.

(b) Each mechanical disengaging apparatus control lever must be colored red with the following marked on or next to the lever: "DANGER-LEVER DROPS BOAT" or "DANGER-LEVER RELEASES HOOKS".

(c) The location of each mechanical disengaging apparatus control lever located at or below seat level must be marked by a band of color contrasting to its surroundings approximately 30 centimeters (12 inches) wide from the keel to each side bench. Each mechanical disengaging apparatus con-

trol located above seat level must be on a background that contrasts with its red color.

§ 108.647 Inflatable liferafts.

Each inflatable liferaft must be identified by marking: "INFLATABLE LIFERAFT NO. — . . . PERSONS CAPACITY" on a sign next to the liferaft or its container—

(a) in letters at least 4 centimeters (1½ inches) high; and

(b) in a contrasting color to the background.

§ 108.649 Life preservers and ring life buoys.

(a) Each life preserver must be marked in a color in contrast to the life preserver with the unit's name.

(b) Each locker box or closet used for stowing life preservers must be marked "LIFE PRESERVERS".

(c) Each ring life buoy must be marked in a color in contrast to the ring lifebuoy with the unit's name and port of registry.

§ 108.651 Portable magazine chests.

Each portable magazine chest must be marked: "PORTABLE MAGAZINE CHEST — FLAMMABLE — KEEP LIGHTS AND FIRE AWAY" in letters at least 7.5 centimeters (3 inches) high.

§ 108.653 Helicopter facilities.

(a) Each helicopter fueling facility must be marked adjacent to the fueling hose storage: "WARNING — HELICOPTER FUELING STATION — KEEP LIGHTS AND FIRE AWAY".

(b) Each storage tank for helicopter fuel must be marked: "DANGER — FLAMMABLE LIQUID".

(c) Each access to a helicopter landing area must be marked: "BEWARE OF TAIL ROTOR".

(d) Each marking required by this section must be in letters at least 7.5 centimeters (3 inches) high.

§ 108.655 Lifeboat and liferaft instructions.

Placards approved by the Commandant that contain instructions for launching lifeboats and liferafts and inflating inflatable liferafts must be conspicuously posted.

§ 108.657 Unit markings.

The hull of each unit must be marked in accordance with Parts 67 and 69 of this chapter.

§ 108.659 Breeches buoy and lifesaving signal instructions.

Instructions on Form CG-811 for the use of breeches buoys and lifesaving signals must be posted so that they can be easily seen in the pilothouse or control room, engine room, each mess-room, and each recreation room.

**§ 108.661 Unit markings: draft marks.**

(a) Each unit must have draft marks for each foot of immersion—

(1) If the unit is a surface unit, on both the port and starboard sides of the stem and the stern-post or rudder-post or at any other place at the stern of the unit as may be necessary for easy observance;

(2) If the unit is a self-elevating unit, near each corner of the hull but not more than 4 required; and

(3) If the unit is a column-stabilized unit, on each corner column, continuing to the footing or lower displacement hull.

(b) The bottom of each mark must be at the draft indicated by that mark.

(c) Each mark must be—

(1) In numerals 15 centimeters (6 inches) high; and

(2) In contrasting color to the background.

(d) For the purposes of this section, "draft" means the distance from the bottom of the keel or the lowest shell plate on the outer surface of the unit to the surface of the water, except that where a unit has a permanent appendage extending below the bottom of the keel, "draft" means the distance from the lowest part of the appendage to the surface of the water.

**§ 108.663 Unit markings: load line.**

Each unit that is assigned a load line must have the load line marked in accordance with Part 42 of this Chapter.

**§ 108.665 Appliances for watertight integrity.**

Each watertight door, scuttle, and hatch required for watertight integrity, which may be opened during normal operations must be marked in letters of contrasting color to the background "KEEP CLOSED".

**Subpart H—Miscellaneous Equipment****§ 108.697 Buoyant work vest.**

Each buoyant work vest on a unit must be approved under § 160.053 of this Chapter.

**§ 108.699 Substitution of life preservers.**

A work vest may not be substituted for a required life preserver—

(a) For the life saving equipment requirements of this part; or

(b) For use during drills and emergencies.

**§ 108.701 Sounding equipment.**

Each self-propelled unit must have a mechanical or electronic sounding apparatus.

**§ 108.703 Self-contained breathing apparatus.**

(a) Each unit must have a self-contained breathing apparatus to be used

as protection from gas leaking from a refrigeration unit.

(b) The self-contained breathing apparatus required in § 108.497 may be used for this purpose.

**§ 108.705 Anchors, chains, wire rope, and hauser.**

(a) Each unit must be fitted with anchors, chains, wire rope, and hausers in agreement with the standards established by the American Bureau of Shipping.

(b) Units which are equipped with anchors used as operational equipment are not required to have additional anchors if the operational anchors meet the requirements of paragraph (a).

**§ 108.707 First aid kit.**

Each unit must have a first-aid kit approved by the Mine Safety and Health Administration (Formerly Mining Enforcement and Safety Administration) of a size suitable for the number of persons allowed on board the unit that is stowed in a location that is accessible to persons on board.

**§ 108.709 Litter.**

Each unit must have a litter that is—

(a) Stowed in a location that is accessible to the persons on board; and

(b) Capable of being used on the type of helicopters serving the unit.

**§ 108.711 Pilot ladders.**

(a) Except as provided in paragraph (c), each unit which normally uses a pilot must have a pilot ladder in addition to the ladders required in § 108.525.

(b) Each unit which has a pilot ladder must have the following:

(1) Spreaders.

(2) A man rope.

(3) A safety line.

(c) A pilot ladder is not required if there is no flat vertical surface to support a pilot ladder.

(d) Illumination over the side of the unit and on the deck where the pilot boards the unit must be provided.

**§ 108.713 International Code of Signals.**

Each vessel on an international voyage which is required to carry a radiotelegraph or radiotelephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

**§ 108.715 Magnetic compass and gyrocompass.**

(a) Each self-propelled unit in ocean or coastwise service must have a magnetic compass.

(b) Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have a gyrocompass

in addition to the magnetic compass required in paragraph (a).

(c) Each unit that is required to have a gyrocompass must have an illuminated repeater for the gyrocompass that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

**§ 108.717 Radar.**

Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have—

(a) A marine radar system for surface navigation; and

(b) Facilities on the bridge for plotting radar readings.

**PART 109—OPERATIONS****Subpart A—General**

109.101 Applicability.

109.103 Requirements of the International Convention for Safety of Life at Sea, 1960.

109.107 Designation of master or person in charge.

109.109 Responsibilities of master or person in charge.

109.121 Operating manual.

**Subpart B—Tests, Drills, and Inspections**

109.201 Steering gear, whistles, general alarm, and a means of communication.

109.203 Sanitation.

109.205 Inspection of boilers and machinery

109.207 Line throwing equipment.

109.208 EPIRB.

109.209 Appliances for watertight integrity.

109.211 Testing of emergency lighting and power systems.

109.213 Fire drill.

109.215 Boat drill

109.217 Lifeboats and lifeboat launching equipment; inspection and testing.

109.219 Inflatable liferaft: servicing.

109.221 Electrical power operated winches.

109.223 Fire fighting equipment.

**Subpart C—Operation and Stowage of Safety Equipment**

109.301 Maintenance of equipment.

109.305 Obstruction on launching decks.

109.307 EPIRBs.

109.313 Stowage of life preservers.

109.317 Replacement of distress signal and self-activated smoke signals.

109.320 Line throwing equipment.

109.321 Portable radio.

109.323 Manning of lifeboats and inflatable liferafts.

109.325 Persons in command of lifeboats or liferafts.

109.329 Fire pumps.

109.331 Firehoses and hydrants.

109.333 Fire main cutoff valves.

109.334 Working over water.

109.335 Stowage of work vests.

109.337 Fireman's outfit.

109.339 Location of fire axes.

109.341 Chain suspension ladders.

109.343 Pilot ladders and equipment.

109.345 Pilot ladders use.

**Subpart D—Reports, Notifications, and Records**

**REPORTS AND NOTIFICATIONS**

- 109.411 Notice of casualty.
- 109.413 Written report of casualty.
- 109.415 Retention of records after casualty.
- 109.417 Report of damage to aid to navigation.
- 109.419 Report of unsafe machinery.
- 109.421 Report of repairs to boilers and pressure vessels.
- 109.423 Report of breaking safety valve seal.
- 109.425 Repairs and alterations: emergency equipment.

**RECORDS**

- 109.431 Logbook.
- 109.433 Logbook entries.
- 109.435 Record of fire fighting equipment inspection.
- 109.437 Crane record book.
- 109.439 Crane certificates.

**Subpart E—Station Bill**

- 109.501 Station bill: duties of personnel.
- 109.503 Station bill: emergency signals.
- 109.505 Station bill: general.

**Subpart F—Cranes and Powered Industrial Trucks**

- 109.521 Cranes: general.
- 109.525 Cranes: working loads.
- 109.527 Cranes: operator designation.
- 109.529 Powered industrial trucks: use.
- 109.531 Powered industrial trucks: ventilated spaces.
- 109.533 Powered industrial trucks: rated lifting capacity.
- 109.535 Designated refueling areas for diesel powered industrial trucks.
- 109.537 Refueling diesel powered industrial trucks: operations.
- 109.539 Recharging battery powered industrial trucks.

**Subpart G—Miscellaneous**

- 109.555 Propulsion boilers.
- 109.557 Flammable and combustible liquids: carriage.
- 109.558 Stores and supplies.
- 109.559 Explosives and radioactive materials.
- 109.563 Posting of documents.
- 109.564 Maneuvering characteristics.
- 109.565 Charts and nautical publications.
- 109.573 Riveting, welding, and burning operations.
- 109.575 Accumulation of liquids on helicopter decks.
- 109.577 Helicopter fueling.
- 109.581 Fixed ballast.
- 109.583 Prevention of oil pollution.
- 109.585 Use of auto pilot.

APPENDIX A—Navigation and Vessel Inspection Circular—Inspection and Certification of Existing Mobile Offshore Drilling Units.

AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46

U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

**Subpart A—General**

**§ 109.101 Applicability.**

No unit may be operated unless it complies with the regulations in this part.

**§ 109.103 Requirements of the International Convention for Safety of Life at Sea, 1960.**

No self-propelled unit of more than 500 gross tons may embark on an international voyage unless it is issued the appropriate Convention certificate as described in §§ 107.401 through 107.413 of this Subchapter.

**§ 109.107 Designation of master or person in charge.**

The owner of a unit or his agent shall designate an individual to be the master or person in charge of the unit.

**§ 109.109 Responsibilities of master or person in charge.**

(a) The master or person in charge shall—

(1) Ensure that the provisions of the Certificate of Inspection are adhered to; and

(2) Be fully cognizant of the provisions in the operating manual required by § 109.121.

(b) Nothing in this subpart shall be construed as limiting the master or person in charge, at his own responsibility, from diverting from the route prescribed in the Certificate of Inspection or taking such steps as he deems necessary and prudent to assist vessels in distress or for other emergency conditions.

**§ 109.121 Operating manual.**

(a) An operating manual must be prepared for each unit.

(b) Each operating manual must be approved by the Commandant (G-MMT).

(c) The operating manual must contain guidance for the safe operation of the unit under normal and emergency conditions.

(d) The operating manual must contain the following information:

(1) A general description of the unit, including lightship data.

(2) Data for each operating mode, including design loading, wave height, and draft.

(3) General arrangement showing watertight compartments, closures, vents, permanent ballast, and allowable deck loadings.

(4) Hydrostatic curves or equivalents.

(5) Capacity plan showing capacities of tanks, center of gravity, free surface

corrections, and instructions for applying them.

(6) Instructions for the operation of the unit while—

(i) Preparing for the passage of a severe storm, including the specific actions and approximate length of time necessary to attain each level of preparedness; and

(ii) Change of operating condition, including preparations prior to making a move.

(7) Stability information setting forth maximum KG versus draft curve, or other parameters, based upon compliance with the intact and damaged stability criteria.

(8) Examples of loading conditions for each mode of operation, and a means for evaluation of other loading conditions.

(9) Inherent limitations of operation for each operating mode.

(10) General guidance and precautions regarding unintentional flooding.

(11) A table of contents and index for the manual.

**Subpart B—Tests, Drills, and Inspections**

**§ 109.201 Steering gear, whistles, general alarm, and means of communication.**

The master or person in charge shall ensure that—

(a) Steering gear, whistles, general alarm bells, and means of communication between the bridge or control room and the engine room on self-propelled units are inspected and tested—

(1) Within 12 hours before getting under way; and

(2) At least once each week if under way or on station; and

(b) Whistles and general alarm bells on all other units are inspected examined and tested at least once each week.

**§ 109.203 Sanitation.**

(a) The master or person in charge shall insure that the accommodation spaces are in a clean and sanitary condition.

(b) The chief engineer, or engineer in charge if no chief engineer is required, shall insure that the engineering spaces are in a clean and sanitary condition.

**§ 109.205 Inspection of boilers and machinery.**

The chief engineer or engineer in charge, before he assumes charge of the boilers and machinery of a unit shall inspect the boilers and machinery, other than industrial machinery, and report to the master or person in charge and the Officer in Charge, Marine Inspection, any parts that are not in operating condition.

**§ 109.207 Line-throwing equipment.**

(a) The master or person in charge shall insure that personnel are instructed in the use of line-throwing equipment.

(b) The master or person in charge shall insure that each line throwing appliance is tested by firing it at least once every four months. The use of a service line is not required for test firing.

**§ 109.208 EPIRB.**

The master or person in charge shall insure that each EPIRB required in § 108.523 of this subchapter is tested monthly using the integrated test circuit and output indicator.

**§ 109.209 Appliances for watertight integrity.**

(a) Before getting underway, the master or person in charge shall insure that each appliance for watertight integrity is closed and watertight.

(b) If existing conditions warrant, the master or person in charge may permit appliances for watertight integrity to be open while afloat.

**§ 109.211 Testing of emergency lighting and power systems.**

(a) The master or person in charge shall insure that—

(1) each emergency lighting and each emergency power system is tested at least once each week;

(2) each emergency generator is tested at least once each month by operating it under load for at least 2 hours; and

(3) each storage battery for emergency lighting and power systems is tested every six months under actual connected load for a period of at least 2 hours.

(b) After the 2 hour test period required in paragraph (a)(3) of this section, the voltage values under load or specific gravity of electrolyte must be measured. Measured values must be extrapolated to approximate the values that would result following a 12 hour test period. The test must be extended if a trend cannot be determined to allow extrapolation. The capacity of the battery corresponding to the extrapolated values of voltage or specific gravity must be sufficient to supply the actual connected load.

**§ 109.213 Fire drill.**

The master or person in charge shall conduct a fire drill at least once each week and shall insure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each fire pump is started;

(c) Each item of rescue and safety equipment is brought from the emergency equipment lockers; and

(d) Each watertight door which is in use while the unit is underway is operated.

**§ 109.215 Boat drill.**

The master or person in charge shall conduct a boat drill at least once each week, and shall insure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each lifeboat is prepared for use;

(c) Weather permitting, at least one lifeboat is partially lowered, and its engine started and operated; and

(d) Each person not assigned duties in the station bill is instructed in the use of life preservers.

**§ 109.217 Lifeboats and lifeboat launching equipment: Inspection and testing.**

The master or person in charge shall insure that—

(a) Each lifeboat is lowered to the water launched and operated at least once each three months as part of a boat drill required by § 109.215;

(b) Each lifeboat is properly equipped;

(c) The motor of each motor propelled lifeboat is operated in the ahead and the astern position at least once each week;

(d) Each lifeboat is cleaned and inspected at least once each year;

(e) The fuel tank of each motor propelled lifeboat is emptied, and the fuel is changed at least once each year;

(f) Each rechargeable battery for each lifeboat radio is fully charged at least once each week; and

(g) Each lifeboat radio transmitter is tested at least once each week.

**§ 109.219 Inflatable liferaft: Servicing.**

The master or person in charge shall insure that each inflatable liferaft is serviced, every 12 months or not later than the next inspection for certification: *Provided*, The time since the date of the last servicing does not exceed 15 months. Except in emergency, no servicing may be done aboard the unit.

**§ 109.221 Electric power operated winches.**

(a) The master or person in charge shall insure that each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches, is inspected at least once each 3 months.

(b) The inspection required in paragraph (a) of this section must include the removal of drain plugs from the electrical enclosures of each lifeboat winch control apparatus.

**§ 109.223 Firefighting equipment.**

The master or person in charge shall insure that each hand portable fire extinguisher, semi-portable fire extinguisher, and fixed fire-extinguishing system is tested and inspected at least once each twelve months.

**Subpart C—Operation and Stowage of Safety Equipment**

**§ 109.301 Maintenance of equipment.**

The master or person in charge shall insure that each item of lifesaving and firefighting equipment required by this subchapter is maintained in operative condition.

**§ 109.305 Obstruction on launching decks.**

The master or person in charge shall insure that each deck from which lifeboats are launched is kept clear of any obstruction that interferes with the immediate launching of lifeboats and liferafts.

**§ 109.307 EPIRB.**

The master or person in charge shall insure that—

(a) Each EPIRB required in § 108.523 is stowed in a manner so that it will float free if the unit sinks.

(b) Each battery of the EPIRB is replaced before the date marked on the EPIRB battery, or after the EPIRB is used.

**§ 109.313 Stowage of life preservers.**

The master or person in charge shall insure that each life preserver required in § 108.514 for each person assigned a berth, is stowed in his berthing area as provided in § 108.514(b), and that the remaining life preservers required in § 108.514(a) are stowed in each work area and watch station as provided in § 108.514(b).

**§ 109.317 Replacement of distress signal and self-activated smoke signals.**

The master or person in charge shall insure that each distress signal and self-activated smoke signal is replaced not later than 36 months after the date of manufacture or not later than the date of expiration, whichever date is marked on the signal.

**§ 109.320 Line-throwing equipment.**

The master or person in charge shall insure that—

(a) The line throwing equipment required by § 108.517 is stowed in a readily accessible location;

(b) The service life of rockets for impulse projected rocket type equipment is limited to a period of four years from the date of manufacture, and replacement of out-dated items made at the first arrival in the United States, except that replacement is made in all cases within twelve months after the date of expiration; and

(c) The line-throwing equipment is not operated in an explosive atmosphere.

**§ 109.321 Portable radio.**

The master or person in charge shall insure that the portable radio required in § 108.519 is—

(a) Stowed in the radioroom, bridge, or a protected location near a lifeboat; and

(b) Readily accessible for transfer to a lifeboat.

**§ 109.323 Manning of lifeboats and inflatable liferafts.**

The master or person in charge shall—

(a) Assign to each lifeboat and each inflatable liferaft to which seat assignments are made in the station bill—

(1) A licensed deck officer, able seaman, or certificated lifeboatman to command the lifeboat;

(2) A licensed deck officer, able seaman, or certificated lifeboatman as second in command, if the lifeboat has a capacity of more than 40 persons;

(3) A person who can operate the lifeboat's motor; and

(4) A person who can operate the portable radio, if the lifeboat has a portable radio; and

(b) Insure that the person assigned to command a lifeboat or inflatable liferaft has a list of the persons, by station bill number and job title, assigned to seats in the lifeboat or liferaft.

**§ 109.325 Persons in command of lifeboats or liferafts.**

A person assigned to command a lifeboat or liferaft shall insure that each person assigned to the lifeboat or liferaft can perform the duties assigned to that person.

**§ 109.329 Fire pumps.**

The master or person in charge shall insure that at least one of the fire pumps required in § 108.415 is ready for use on the fire main system at all times.

**§ 109.331 Firehoses and hydrants.**

The master or person in charge shall insure that—

(a) At least one length of firehose with a combination nozzle is connected to each fire hydrant required by this subchapter, at all times, except that during heavy weather a firehose in an exposed location may be temporarily removed from the fire hydrant and stowed in an accessible, nearby location;

(b) A fire hose required by this subchapter is not used for any purpose other than firefighting, fire drills, and testing;

(c) Access to each fire hydrant is not blocked;

(d) Each firehose, except a firehose temporarily removed from an exposed location, is stowed on a rack or reel required by this subchapter; and

(e) Each low velocity spray applicator for a fire hose nozzle is attached to the nozzle or stowed next to the fire hydrant to which the fire hose is attached.

**§ 109.333 Fire main cutoff valves.**

The master or person in charge shall insure that each fire main cutoff valve is open and sealed to prevent closing, except that a cutoff valve may be closed to protect the portion of the fire main system on an exposed deck from freezing.

**§ 109.334 Working over water.**

The master or person in charge shall insure that each person working over the water is wearing a life preserver or a buoyant work vest.

**§ 109.335 Stowage of work vests.**

The master or person in charge shall insure that no work vest is stowed where life preservers are stowed.

**§ 109.337 Fireman's outfit.**

The master or person in charge shall insure that—

(a) At least 2 persons who are trained in the use of the fireman's outfit are on board at all times; and

(b) Each fireman's outfit and its spare equipment is stowed in a separate and accessible location.

(c) A fireman's outfit is not used for any purpose other than fire fighting except as provided in § 108.703.

**§ 109.339 Location of fire axes.**

The master or person in charge shall insure that the fire axes required in § 108.499 of this subchapter are located in the enclosures for fire hoses marked in accordance with § 108.633 of this subchapter, if the fire axes are not located in plain view.

**§ 109.341 Chain suspension ladders.**

The master or person in charge shall insure that each chain suspension ladder required in § 108.525(a) of this subchapter is—

(a) Kept ready for immediate use; and

(b) Stowed near the lifeboat or inflatable liferaft davits.

**§ 109.343 Pilot ladders and equipment.**

The master or person in charge shall insure that—

(a) The equipment required in § 108.711(b) is kept available for use with the pilot ladder required in § 108.711(a); and

(b) One ring buoy with a waterlight is available for use when a pilot boards the unit.

**§ 109.345 Pilot ladder use.**

The master or person in charge shall insure that—

(a) A pilot ladder, when in use, is secured so that each step rests firmly against the side of the unit;

(b) A pilot boards a unit by means of an accommodation ladder or personnel transfer equipment if a pilot ladder is not used.

**Subpart D—Reports, Notifications, and Records**

**REPORTS AND NOTIFICATIONS**

**§ 109.411 Notice of casualty.**

(a) The owner, agent, master, or person in charge of a unit that is involved in a marine casualty shall notify the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, if the casualty involves any of the following:

(1) Actual physical damage to property in excess of \$5,000.00.

(2) An occurrence affecting the seaworthiness or efficiency of the unit, such as fire, flooding, failure of a fixed fire protection system, or any failure of primary lifesaving equipment.

(3) Stranding or grounding of the unit, except when the unit is grounded to conduct normal operations.

(4) Loss of life.

(5) Injury causing any person to require hospitalization for more than 24 hours, or to be incapacitated for more than 72 hours.

(b) The notice required by this section must contain the following:

(1) Name and official number of the unit.

(2) Name of the owner or agent of the unit.

(3) Description of the casualty, including cause.

(4) Location of the unit at the time of the casualty.

(5) Nature and extent of injury to persons.

(6) Damage to property.

(c) The notice required by this section is not required to be submitted if the written report of casualty required by § 109.413 is submitted without delay.

**§ 109.413 Written report of casualty.**

The master or person in charge of a unit for which a report of casualty is made under § 109.411 shall submit a report to the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, on—

(a) Form CG-924E if the casualty involves injury to persons or loss of life; and

(b) Form CG-2692 if the casualty involves damage to property or grounding or stranding of a vessel except when the unit is grounded to conduct normal operations.

**§ 109.415 Retention of records after casualty.**

(a) The owner, agent, master, or person in charge of a unit for which a report of casualty is made under § 109.411 shall insure that all records maintained on the unit are retained on board the unit for at least 3 months after the report of casualty is made or until advised by the Officer in Charge, Marine Inspection, that records need not be retained on board.

(b) The records which must be retained in accordance with paragraph (a) of this section include:

- (1) Rough and smooth deck log.
- (2) Rough and smooth engine room log.
- (3) Tour reports.
- (4) Bell books.
- (5) Navigation charts in use at the time of casualty.
- (6) Navigation work books.
- (7) Compass deviation cards.
- (8) Gyrocompass records.
- (9) Storage plans.
- (10) Record of drafts.
- (11) Notices to mariners.
- (12) Radiograms sent and received.
- (13) The radio log.
- (14) Personnel list.
- (15) Crane record book.

(c) The owner, agent, master, or person in charge shall, upon request, make the records described in this section available for examination by any Coast Guard official authorized to investigate the casualty.

**§ 109.417 Report of damage to aid to navigation.**

If a unit collides with an aid to navigation maintained by the Coast Guard, the master or person in charge shall report the collision to the appropriate Officer in Charge, Marine Inspection.

**§ 109.419 Report of unsafe machinery.**

If a boiler, unfired pressure vessel, or other machinery on a unit is unsafe to operate, the master or person in charge shall report the existence of the unsafe condition to the Officer in Charge, Marine Inspection.

**§ 109.421 Report of repairs to boilers and pressure vessels.**

Before making repairs, except normal repairs and maintenance such as replacement of valves or pressure seals, to boilers or unfired pressure vessels in accordance with § 50.05-10 of this chapter, the master or person in charge shall report the nature of the repairs to the Officer in Charge, Marine Inspection.

**§ 109.423 Report of breaking safety valve seal.**

(a) If a required seal on a boiler safety valve is broken, the chief engineer or engineer in charge shall notify

the Officer in Charge, Marine Inspection.

(b) The notice must—

- (1) State the reason for breaking the seal; and
- (2) Request that the valve be examined and adjusted.

**§ 109.425 Repairs and alterations: Emergency equipment.**

(a) Before making repairs or alterations, except emergency repairs or alterations, to lifesaving, fire detecting or extinguishing equipment, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

(b) When emergency repairs or alterations to lifesaving, fire detecting or fire extinguishing equipment have been made, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

**RECORDS**

**§ 109.431 Logbook.**

(a) The master or person in charge of a unit that is required by 46 U.S.C. 201 to have an official logbook shall maintain the logbook on Form CG-706. When the voyage is completed, the master or person in charge shall file the logbook with the Officer in Charge, Marine Inspection.

(b) The master or person in charge of a unit that is not required by 46 U.S.C. 201 to have an official logbook, shall maintain, on board, an unofficial logbook for making the entries required by this subpart. This logbook must be retained on board until the unit's next reinspection or inspection for certification.

**§ 109.433 Logbook entries.<sup>1</sup>**

The master or person in charge shall insure that the following applicable entries are made in the logbook required by this subpart:

(a) The date of each test of the steering gear, whistle, general alarm, and communications equipment and the condition of the equipment.

(b) The time and date of each opening and closing, while the unit is afloat, of each required appliance for watertight integrity not fitted with a remote operating control or alarm system and the reasons for the action.

(c) The date of each test of emergency lighting and power systems and the condition and performance of the equipment.

(d) the following information pertaining to each fire drill:

<sup>1</sup> NOTE.—R. S. 4290 (46 U.S.C. 201) requires that certain entries be made in an official logbook, in addition to the entries required by this section; and R. S. 4291 (46 U.S.C. 202) prescribes the manner of making those entries.

(1) Date and hour of each drill.

(2) Duration of each drill.

(3) The condition of all fire fighting equipment, watertight door mechanisms, and valves used during each drill.

(e) The following information pertaining to each boat drill:

(1) Date and hour of each drill.

(2) Duration of each drill.

(3) The number of each lifeboat swung out during each drill.

(4) The number of each lifeboat lowered during each drill.

(5) Length of time that each motor propelled lifeboat was operated during each drill.

(6) The condition of lifesaving equipment used during each drill.

(f) The date of the lifeboat equipment examination required in § 109.217 of this part.

(g) If a drill required in § 109.213 or § 109.215 is not held, the reasons for not holding the drill.

(h) If a drill required in § 109.213 or § 109.215 is not completed, the reasons for not completing the drill, and the date and a description of the incomplete drill.

(i) The date of each lifeboat winch inspection required in § 109.221 and the condition of the winch.

(j) Prior to getting underway, the fore and aft drafts, the position of the loadline marks in relation to the surface of the water, and the density of the water in which the vessel is floating, if in fresh or brackish water.

(k) The date of each inspection of each accommodation space.

(l) The date of each inspection required in § 109.573 if performed by the master or person in charge.

(m) The date of each test firing of the line throwing equipment required by § 109.207.

**§ 109.435 Record of fire fighting equipment inspection.**

(a) The master or person in charge shall ensure that a record of each test and inspection required in § 109.223 is maintained on board, until the unit is reinspected or inspected for certification.

(b) The record required in paragraph (a) of this section must show—

(1) The date of each test and inspection;

(2) The number or other identification of each item of equipment tested or inspected; and

(3) The name of the person, and the company he represents if any, who conducts the test or inspection.

**§ 109.437 Crane record book.**

The master or person in charge shall ensure that the following are maintained in a crane record book:

(a) Descriptive information which will identify each crane including—

(1) The API name plate data required by Section 11 of API Spec. 2C, Second Edition, February 1972; and

(2) The rated load chart for each line reeving and boom length which may be utilized.

(b) Information required by Section 3 of the American Petroleum Institute *Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (October 1972) with supplement 1.

(c) Dates and results of frequent inspections and tests required in paragraph (b) of this section.

(d) Dates and results of periodic inspections and tests required in paragraph (b) of this section.

(e) Date and result of each rated load test.

(f) Date and description of each replacement or renewal of wire rope, hooks, and other load components.

(g) Date and description of each failure of the crane, or any component or safety feature.

(h) Date and description of each repair to the crane structure, boom, or equipment.

§ 109.439 Crane certificates.

The master or person in charge shall insure that the following certificates and records for each crane are maintained on the unit:

(a) Each certificate issued by a crane certifying authority.

(b) Each record and original certificate, or certified copy of a certificate, or manufacturers or testing laboratories, companies or organizations for—

- (1) Loose gear;
- (2) Wire rope; and
- (3) The annealing of wrought iron gear.

**Subpart E—Station Bill**

§ 109.501 Station bill: Duties of personnel.

(a) The station bill must set forth the duties and station of each person during emergencies, including an assigned seat in a lifeboat or liferaft for each person on the unit.

(b) The duties must, as far as possible, be comparable with the regular work of the individual.

(c) These duties must include:

(1) Closing airports, watertight doors, scuppers, and sanitary and other discharges that lead through the unit's hull.

(2) Stopping fans and ventilating systems.

(3) Operating all safety equipment.

(4) Preparing lifeboats and life rafts for launching.

(5) Extinguishing fires.

(6) Warning personnel of the emergency.

(7) Instructing all personnel on use and wearing of their life preservers.

(8) Directing personnel to appointed stations.

(9) Carrying the portable radio apparatus, required in § 108.519, to a lifeboat.

§ 109.503 Station bill: Emergency signals.

(a) The station bill must set forth signals that—

(1) Call personnel to their stations; and

(2) Direct personnel at their stations.

(b) Emergency stations signals are established as follows:

(1) The signal to man emergency stations is a rapid succession of short soundings of both the general alarm bell and the whistle, if a whistle is installed, for a period of not less than 10 seconds.

(2) The signal to secure from emergency stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

(c) The abandon unit stations signals are established as follows:

(1) The signal to man abandon unit stations is a continuous sounding of both the general alarm and the whistle, if a whistle is installed.

(2) If whistle signals are used to direct the handling of lifeboats, they must be—

(i) One short blast to lower lifeboats; and

(ii) Two short blasts to stop lowering the lifeboats.

(3) The signal to secure from abandon unit stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

§ 109.505 Station bill: General.

The master or person in charge shall—

(a) Ensure that the station bill is prepared and maintained;

(b) Sign the station bill;

(c) Ensure that the station bill is posted in conspicuous locations on the unit;

(d) Ensure that temporary personnel and visitors are advised of their emergency stations and assigned a seat in a lifeboat or liferaft upon their arrival aboard the unit; and

(e) Ensure that all persons on the unit are familiar with the station bill.

**Subpart F—Cranes and Powered Industrial Trucks**

§ 109.521 Cranes: General.

The master or person in charge shall ensure that each crane is operated and maintained in accordance with the *API Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (Oct. 1972) with supplement 1.

§ 109.525 Cranes: Working loads.

The master or person in charge shall ensure that tables indicating the maximum safe working loads for the various working angles of the boom, where the boom is rated at varying capacities depending on the radius, and the maximum and minimum radius at which the boom may be safely used, are conspicuously posted near the controls and are visible to the operator when working the crane.

§ 109.527 Cranes: Operator designation.

(a) The master or person in charge shall designate, in writing, each crane operator.

(b) The master or person in charge shall ensure that only designated operators operate cranes.

(c) The master or person in charge shall ensure that each designated operator is familiar with the provisions of the *API Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (Oct. 1972) with supplement 1.

§ 109.529 Powered industrial trucks: Use.

The master or person in charge shall ensure that—

(a) Only "EX" designated trucks are used in Class I, Division 1 locations; and

(b) Only "EE", "EX", or "DS" designated trucks are used in—

- (1) Class I, Division 2 spaces; and
- (2) In spaces that are within the periphery of a Class I, Division 1 space.

§ 109.531 Powered industrial trucks: Ventilated spaces.

The master or person in charge shall ensure that diesel powered industrial trucks are operated only in ventilated spaces.

§ 109.533 powered industrial trucks: Rated lifting capacity.

The master or person in charge shall ensure that the rated lifting capacity of each powered industrial truck is posted on each truck.

§ 109.535 Designated refueling areas for diesel powered industrial trucks.

The master or person in charge shall designate refueling areas for diesel powered industrial trucks only on—

- (a) The weather deck; or
- (b) In spaces that are—
  - (1) Ventilated to prevent accumulation of vapors; and
  - (2) Located at least 3 meters (10 feet) from a source of ignition.

§ 109.537 Refueling diesel powered industrial trucks: Operations.

The master or person in charge shall ensure that—

(a) Each diesel powered industrial truck is refueled only in a refueling area designated under § 109.535;

(b) Before a diesel powered industrial truck is refueled, its engine is stopped;

(c) If refueling operations are conducted in an enclosed space, no truck engine is operated in the space during refueling operations;

(d) Diesel powered industrial trucks are refueled from—

(1) A portable container of five gallons or less that has a self-closing spout; or

(2) If the refueling operation is on the weather deck, a pump with a hose that has a pistol grip, deadman nozzle; and

(e) Each designated refueling area has at least one four pound, dry chemical, portable fire extinguisher available during refueling operations.

#### § 109.539 Recharging battery powered industrial trucks.

The master or person in charge shall ensure that batteries of powered industrial trucks are charged only in a ventilated area and not in a Class I location.

### Subpart G—Miscellaneous

#### § 109.555 Propulsion boilers.

The master or person in charge and the engineer in charge shall ensure that—

(a) Steam pressure does not exceed that allowed by the certificate of inspection; and

(b) Except as provided in § 109.423, the safety valves, once set and sealed by the inspector, are not tampered with or made inoperative.

#### § 109.557 Flammable and combustible liquids: Carriage.

The master or person in charge shall ensure that—

(a) Flammable and combustible liquids in bulk are not carried, except as allowed by endorsement to the Certificate of Inspection;

(b) Portable tanks are handled and stowed in accordance with Subparts 98.30 and 98.35 of this chapter, and the provisions of 49 CFR Parts 171, 172, 173, 176, and 178 which are applicable to portable tanks; and

(c) Grades B and lower liquids are—

(1) Authorized, by the Commandant, to be carried; and

(2) Carried only in fixed independent or integral tanks.

#### § 109.558 Stores and supplies.

The master or person in charge shall ensure that dangerous articles, substances, and combustible liquids which are used on board a unit, except those used in industrial operations and as fuel for the unit's machinery, are ac-

cepted, handled, stowed, and used only in accordance with the provisions for cargo vessels in Part 147 of this Chapter.

#### § 109.559 Explosives and radioactive materials.

Except as authorized by the master or person in charge, no person may use explosives or radioactive materials and equipment on a unit.

#### § 109.563 Posting of documents.

The master or person in charge shall ensure that the following are posted under glass in the pilot house or control center:

(a) General arrangement plans for each deck showing—

(1) Each fire retardant bulkhead;

(2) Each fire detecting, manual alarm, and fire extinguishing system;

(3) Each fire door;

(4) Each means of ingress to compartments; and

(5) Each ventilating system, including the location of each damper, fan, and remote means of stopping the fans.

(b) The stability letter issued by the Coast Guard.

(c) Each SOLAS and Coast Guard certificate issued to the unit.

#### § 109.564 Maneuvering characteristics.

(a) The master or person in charge of each self-propelled unit of 1,600 gross tons and over shall ensure that a maneuvering information fact sheet is prominently displayed in the pilot-house.

(b) For surface type units, the maneuvering information in Part 97.19 of this chapter must be displayed.

(c) The maneuvering information requirements for column stabilized, self-elevating, and other units of unusual design will be specified on a case by case basis.

#### § 109.565 Charts and nautical publications.

The master or person in charge of a self-propelled unit shall ensure that the unit has the following adequate, up to date, and appropriate items for the intended voyage:

- (a) Charts.
- (b) Sailing directions.
- (c) Coast pilots.
- (d) Light lists.
- (e) Notices to mariners.
- (f) Tide Tables.
- (g) Current Tables.
- (h) All other nautical publications necessary.<sup>1</sup>

#### § 109.573 Riveting, welding, and burning operations.

Except as allowed by this section—

<sup>1</sup>NOTE.—For U.S. units in or on the navigable waters of the United States. See 33 CFR 164.33.

(a) the master or person in charge shall ensure that there is no riveting, welding, or burning—

(1) In a fuel tank;

(2) On the boundary of a fuel tank;

(3) On pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel tanks; or

(4) On the boundary of spaces adjacent to tanks carrying Grades A, B, or C flammable liquids in bulk.

(b) The operations prohibited in paragraph (a) of this section may be allowed if—

(1) An inspection conducted in accordance with the "Standard for the Control of Gas Hazards on Vessels to be Repaired," N.F.P.A. No. 306-1974, is made—

(i) In ports or navigable waters of the United States, its territories and possessions, by—

(A) A marine chemist certified by the National Fire Protection Association; or

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(ii) In all other locations by—

(A) A marine chemist certified by the National Fire Protection Association;

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(C) If the persons required in paragraph (b)(ii) (A) and (B) of this section are not available, the master or person in charge; or a welding supervisor designated, in writing, by the master or person in charge; and

(2) A certificate is issued by the person conducting the inspection stating—

(i) That he conducted the inspection in accordance with the standard in paragraph (b)(1) of this section;

(ii) The operations that may be conducted; and

(iii) A list of precautions to be followed during the operations;

(c) The master or person in charge shall ensure that the precautions in paragraph (b)(2)(iii) of this section are followed.

#### § 109.575 Accumulation of liquids on helicopter decks.

The master or person in charge shall ensure that no liquids are allowed to accumulate on the helicopter decks.

#### § 109.577 Helicopter fueling.

(a) The master or person in charge shall designate persons to conduct helicopter fueling operations.

(b) No person may be designated to conduct such operations unless he is familiar with the fueling procedures and safety precautions.

§ 109.581 Fixed ballast.

(a) The master or person in charge shall ensure that fixed ballast is not removed from the unit or relocated unless the removal or relocation is approved by the Commandant.

(b) Fixed ballast may be moved for examination or repair of the unit if done in the presence of a marine inspector.

§ 109.583 Prevention of oil pollution.

The master or person in charge shall ensure that the unit is operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (86 Stat. 816; 33 U.S.C. 1321);

(b) Section 12 of the Oil Pollution Act, 1961, as amended (75 Stat. 404; 33 U.S.C. 1011); and

(c) 33 CFR Parts 151, 155 and 156.

§ 109.585 Use of auto pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, and all other hazardous navigational situations, the master or person in charge shall ensure that—

(a) It is possible to immediately establish manual control of the unit's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the officer of the watch.

APPENDIX A—NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 3-78

SUBJ: INSPECTION AND CERTIFICATION OF EXISTING MOBILE OFFSHORE DRILLING UNITS

1. *Purpose.* To promulgate instructions for the inspection and certification of existing mobile offshore drilling units. This NVC is also being published as appendix A of 46 CFR Subchapter IA.

2. *Background.* Mobile Offshore Drilling Units are recognized internationally through the Intergovernmental Maritime Consultative Organization as being a "special purpose ship" designed and operated to carry out an industrial function at sea. Contemporary U.S. Vessel regulations in Title 46 CFR do not adequately cover the safety considerations which are unique to the hull and structural designs, industrial equipment and operating procedures incorporated in drilling vessels. To provide appropriate and adequate standards, the Coast Guard with the assistance of the National Offshore Operations Advisory Committee, and following the provisions of the Administrative Procedures Act, developed Subchapter IA, Regulations for Mobile Offshore Drilling Units, 46 CFR Parts 107-109 and amendments to 46 CFR Subchapters "F", Marine Engineering Regulations, and "J", Electrical Engineering Regulations. These regulations, published in FEDERAL REGISTER (43 FR 58788 December 4, 1978) will apply to all units

contracted for on or after the effective date of the regulations.

3. *Discussion.* a. This NVC elaborates the "grandfather provisions" of 46 CFR 107.211 and 107.215 in applying Subchapter IA to the approximately 150 existing ocean-going U.S. flag mobile offshore drilling units. "Existing" Mobile Offshore Drilling Units are those vessels which have been contracted for before the effective date of the regulations including:

(1) Units in Service.

(2) Units under construction.

(3) Units contracted for which are to be constructed and delivered prior to January 1, 1981.

b. Existing *uncertificated* mobile drilling units of which there are approximately 92 of the bottom bearing configuration, i.e., jack-up and submersible types, have not previously been required to comply with vessel inspection regulations. Some units have met the load line requirements of Subchapter "E" for International Voyages. Many of the older units are not classed by a classification society. Bottom bearing units operating on the Outer Continental Shelf of United States have been required to meet the safety requirements of 33 CFR Subchapter "N" as artificial islands. On January 3, 1979, existing bottom bearing units are subject to the "grandfather provisions" in paragraph 107.211(c) of Subchapter IA.

c. Existing *certificated* mobile offshore drilling units, for the purposes of this NVC, are column-stabilized and ship-shape types of which approximately 58 are currently certificated, or have made application for an original Certificate of Inspection or intend to make application for an original inspection for certification under 46 CFR Subchapter "I" on the basis of the unit being contracted for prior to the effective date of the new regulations. These units may continue to meet the structural, equipment, material and arrangement standards which were applicable to the hull, engineering, electrical and industrial systems when the units were contracted for. In addition they must meet the provisions of d.(1), d.(4)(d), d.(7)(b), d.(8), d.(9), d.(10)(b), d.(11) and d.(12) of paragraph 3 of this NVC in accordance with paragraph 107.215(c)(2) of Subchapter IA.

d. *Inspection Provisions for Existing Uncertificated Units.* The intent of the "grandfather" provisions of this NVC for existing uncertificated units is to ascertain through inspection that the material condition of the unit and its equipment meet reasonable levels of safety. To this end, the following determinations will be made:

● The design, construction and arrangements of the hull, machinery electrical and industrial systems do not reveal manifestly unsafe aspects.

● There is no excessive deterioration of the hull structure or equipment foundations.

● There are no intrinsic fire or explosion hazards.

● There are no personnel hazards such as unguarded moving machinery, potential electrical shock conditions or lack of handrails.

● The unit is seaworthy and exhibits satisfactory stability.

d.(1) *General.* (a) Repairs and minor alterations to hull structure or equipment may be made to the same standards as the original installation. However, new installations or major alterations which affect vessel or

personnel safety shall meet the applicable standards of Subchapter IA.

(b) Existing items of safety equipment not meeting the applicable specifications or requirements set forth in Subchapter IA may be continued in service as long as they are maintained in good working order to the satisfaction of the OCMI. Such safety equipment and installations requiring extensive repairs shall be replaced and shall meet the applicable specifications and requirements of Subchapter IA.

(c) The OCMI has discretion to accept alternatives or equivalents which meet the established standards, and to give special consideration to departures from the regulations when it can be shown that special circumstances warrant such departures.

d.(2) *Plan Submittal.* (a) For units not classed by the American Bureau of Shipping or other recognized classification society, (see 46 CFR 108.109) the OCMI must have sufficient plans and information submitted to him which will describe such things as the unit's size, construction, configuration, arrangement of tanks, decks and spaces; and the machinery and electrical installation. In addition, the OCMI may require submittal of any additional data he considers necessary in order to proceed with the original inspections.

(b) For units classed by the American Bureau of Shipping or other recognized classification society, the plans and information described in Subchapter IA paragraphs 107.305 (a), (b), (v), and (ii) and a general description of the machinery and electrical installation shall be submitted to the OCMI for information. The OCMI may accept continued classification as proof of structural, mechanical, and electrical sufficiency. However, the OCMI may require additional plans and information if necessary.

d.(3) *Hull Structure.* (a) No structural changes will be required unless manifestly unsafe conditions exist.

(b) Existing uncertificated units must be drydocked or have a special examination in lieu of drydocking as required by 46 CFR, Section 107-261.

(c) Achievement of one compartment subdivision is not required where extensive modification of the original design would be necessary; however, watertight integrity of the hull and structural boundaries must be maintained. Bulkheads and decks designed to be watertight must be maintained as such where they are penetrated by pipes, electrical cable, reach rods, ventilation systems, etc.

d.(4) *Stability.* (a) The stability of each existing unit will be reviewed by the Coast Guard. The plans indicated in 46 CFR Subchapter IA paragraphs 107.305(q) through (u-l) must be submitted to the cognizant OCMI or Merchant Marine Technical Office.

(b) Lightship data from a Coast Guard witnessed and approved stability test is required for each existing, uncertificated unit. Alternatively other evidence of lightship values will be considered on a case by case basis.

(c) In general, compliance with the intact stability standards of 46 CFR Subchapter IA, Sections 108.303 through 108.309 is required. Where existing units were designed to a lesser standard of stability than that specified in §§ 108.303 through 108.309, some relaxation based on proven past performance may be granted at the discretion of the OCMI and limiting conditions, if any, set

forth in the operating manual. In no case will the minimum wind speed for adequate stability be reduced below 50 knots.

(d) An operating manual shall be prepared for each unit. Each operating manual must contain the information indicated in 46 CFR Subchapter IA, §109.121(d) and be submitted to the cognizant OCMI or Merchant Marine Technical Office for review.

d. (5) *Load Line.* (a) All units are required to obtain and maintain a valid Load Line Certificate. The structure and stability of the unit must be proven adequate for the voyages and areas of operation intended.

(b) The American Bureau of Shipping or other recognized classification society will issue Load Line Certificates and conduct initial and annual load line surveys. Coast Guard and the American Bureau of Shipping inspections may be conducted simultaneously, but it is the owner's responsibility to arrange coordinated inspection schedules.

(c) The structural review conducted by the American Bureau of Shipping or other recognized classification society for load line assignment may be accepted by the Coast Guard as proof of structural adequacy of the hull.

(d) The stability review must be completed prior to issuance of a Load Line Certificate. The Coast Guard will inform the American Bureau of Shipping or other recognized classification society of the results of the stability review, and will indicate any stability limitations to be placed on the Load Line Certificate.

(e) Freeboard calculations for self-elevating units with barge type hulls will be made in accordance with 46 CFR, Part 42. The bow height requirements of 46 CFR 42.20-70 may be relaxed to approximately 33% of the normal requirement for barge shapes moving at speeds less than 6 knots. No relaxation of the addition to freeboard for deficiency in sheer is allowed. The freeboard for units other than self-elevating units with barge type hulls will be based upon compliance with the intact and damage stability standards applicable at the time the unit was contracted for.

(f) All units delivered after the date of this NVC regardless of contract date, must obtain a Load Line Certificate as soon as operationally feasible.

d. (6) *Route and Operating Area Limitations.* (a) Units classed by the American Bureau of Shipping or other recognized classification society for ocean service generally will be certificated by the Coast Guard for ocean routes.

(b) Unclassed units which have proven structural and stability adequacy by continued safe operation in a specific geographic area, such as the Gulf of Mexico, will be limited by the Certificate of Inspection and Load Line Certificate to that area. To qualify for an unlimited oceans route, such a unit must be reviewed for adequacy of the structure and stability by the Coast Guard and meet the Load Line requirements of d. (5) above.

(c) Any unit which intends to move or operate outside the geographical area indicated on the Certificate of Inspection must receive prior approval from the OCMI.

d. (7) *Fire Protection.* (a) *Structural fire protection.* All units must meet the provisions of Section 108.123, Insulation of Combustible Materials and Section 108.127, Storage Lockers for Combustibles. All existing interior stairways which are open at each end must be enclosed at one level. On units

where wood was utilized in the construction of accommodation spaces, each space must be equipped with a smoke or heat detector either battery powered or operating on the AC power supply. All detectors must have the Underwriters Laboratories, Inc., label (UL) or the Factory Mutual Laboratories (FM) label.

(b) *Fire Extinguishing Systems.* Systems and equipment must be provided which will meet or be equivalent to the applicable specifications and provisions required by Subchapter IA. Installed fire extinguishing systems, which provide equivalent or greater protection than systems required by Subpart E, Subchapter IA may be continued in use as long as they are in good material condition and will function as designed. Where practicable, existing washdown systems may be utilized as the firemain. Where wood was utilized in the construction of accommodation spaces, the applicable requirements of 46 CFR Subchapter IA, Table 108.495(a) should be doubled.

d. (8) *Lifesaving Equipment.* (a) Each unit must have lifesaving equipment (lifeboats and davit launched liferafts) for 200 percent of the total persons allowed on board. Except for submersible type units, the installation of lifeboats for 100 percent of the persons (on board) is required in accordance with 46 CFR Section 108.503 of Subchapter IA. Consideration will be given to those units where existing arrangement and structure do not provide sufficient room for installation of the lifeboats or where the added weight of the lifeboats, davits and winches will materially reduce the variable load capacity of the unit. In such cases, davit launched inflatable liferafts with a combined personnel capacity of the required lifeboats, and a rescue boat approved by the OCMI may be acceptable equivalents. Submersible type units may substitute Coast Guard approved throw over type inflatable liferafts and an approved rescue boat for the required lifeboats.

(b) For the second part of the total 200 percent primary lifesaving requirement, lifeboats installed in accordance with 33 CFR, Subchapter "N" Part 144 or Coast Guard approved life floats may be retained as provided for in 3.d(1)(b) of this Circular. They will be considered collectively with the Coast Guard approved liferafts for calculating the amount of equipment to provide for 100 percent of personnel on board.

(c) Adequate access to all lifesaving equipment must be provided.

d. (9) *Cranes.* (a) Plan approval will not normally be required of any crane which conforms to the specifications of the manufacturer as originally installed. A rated load test as described in Section 107.260 of Subchapter IA will be required unless the crane has been load tested while under certification by an approved certifying authority as provided for in 46 CFR 107.258. Prior to the rated load test, the crane should be identified by manufacturer and model number to determine that the correct load rating chart is being used. The owner must submit to the OCMI details and calculations of any alterations to a crane which were accomplished without manufacturer's documentation in order to verify the rated load of the crane.

d. (10) *Electrical.* (a) Multiple power sources do not require an emergency generator; however, storage batteries or approved relay-controlled battery operated lanterns are required to be installed for the emergen-

cy lighting system and provide 12 hours of lighting.

(b) Electrical equipment installed in Class I, division 1 and 2 locations, as defined in Subchapter IA, Section 108.170 must be of a suitable type and in good material condition.

d. (11) *Unfired Pressure Vessels.* (a) Unfired pressure vessels built and stamped in accordance with Section VIII of the ASME Code may be continued in service as long as they remain in satisfactory condition. At the original and subsequent inspections for certification, ASME Code pressure vessels must be tested and examined in accordance with the requirements in 46 CFR 61.10-5.

(b) Unfired pressure vessels which cannot be identified as being constructed to any recognized standard may be continued in service provided that no obvious defects are noted. These pressure vessels shall be hydrostatically tested to one and one half times the working pressure. For pressure vessels that can not be reasonably hydrostatically tested, nondestructive testing may be used to verify the pressure vessels condition for continued serviceability. These pressure vessels will then be stamped with a Coast Guard identification number and periodically tested and examined in accordance with the requirements in 46 CFR 61.10-5.

d. (12) *Marine Sanitation Devices.* (a) All units must meet the provisions of 33 CFR Part 159, Coast Guard Marine Sanitation Devices Regulations. The discharge requirements are compatible with the OCS Orders of the U.S. Geological Survey.

4. *Action.* a. The owner of each existing certificated unit must provide the cognizant OCMI a proposed plan to accomplish the requirements in paragraph 3. c. of this NVC within 60 days from the effective date of the regulations. Most items should be approved at the unit's next inspection for certification; however, where major equipment installations are concerned, the owner may be allowed up to two years to comply with the requirements from the time the OCMI completes his assessment of the proposals.

b. *Application for Original Inspection for Certification.* Not later than sixty days from January 3, 1979, application for original inspection for certification of all existing uncertificated units, shall be submitted to the appropriate OCMI. The plans or descriptive data specified in paragraph 3.d(2) of this NVC along with a proposed plan to bring the unit into compliance should, if possible, be submitted with the application for inspection. If not feasible to assemble all required information in this time frame, an estimated date of submittal shall be indicated on the application. Arrangements should be made to commence the original inspection for certification with due consideration for the unit's operating situation.

c. To the extent possible the same inspection team will conduct the inspection of all existing uncertificated units in a geographical area. It may be advantageous to conduct the original inspection in conjunction with an impending special or periodic survey, drydocking or availability period. Units under construction will receive primary consideration by the OCMI for the allocation of time and personnel so that any problems can be identified while the unit is in the most advantageous situation to apply corrections.

d. The variety of designs and arrangements presented by existing uninspected MODU's makes it impractical to prescribe

detailed standards for all existing units. The procedures followed to implement this NVC must provide the necessary flexibility. Items which must be taken into consideration in applying this NVC are listed below. Categorizing units into groups to which the same items apply will be of value during the inspection process. These items are:

- Type
- Builder
- Model
- Date build
- Classed by ABS or other classification society
- Load Line assignment
- Operating history (including geographical areas)
- Present location

e. *Issuance of the Original Certificate of Inspection.* The intent of the original inspection of existing uncertificated units is to identify and commence correction of any unsafe conditions and/or equipment deficiencies and to issue the unit an original Certificate of Inspection. A reasonable period of time will be permitted to correct minor deficiencies. Those items directly affecting personnel safety and health will require immediate attention to correct the unsafe condition. Extensive deficiencies, such as those involving structural aspects or equipment may require up to two years to remedy. Additional times may be allowed if repair facilities are not available to coastal areas adjacent to the unit's area of operation. Where manifestly unsafe conditions are found, the OCMI may require that the unit discontinue operations until such conditions are corrected. If the owner or operator feels aggrieved by the decision of the OCMI, the appeals procedures of 46 CFR 2.01-70 are applicable.

f. Questions concerning this NVC should be referred to the Commandant (G-MVI).

**SUBCHAPTER J—ELECTRICAL ENGINEERING  
PART 110—GENERAL PROVISIONS**

24. By adding a new § 110.01-10(g) to read as follows:

§ 110.01-10 Authority for regulations.

(g) *Mobile offshore drilling units.* The citation regarding authority to prescribe requirements for mobile offshore drilling units is in Subchapter I-A of this chapter.

**PART 111—ELECTRIC SYSTEM:  
GENERAL REQUIREMENTS**

25. By adding a new § 111.05-(d)(22) to read as follows:

§ 111.05-5 Plan approval.

(d) \*\*\*  
(22) For tank vessels, mobile offshore drilling units, and other vessels carrying hazardous materials as indicated in § 111.80-5, plans showing the location of each item of electrical equipment that is in a hazardous loca-

tion. Plans must include a symbol list and manufacturer's name and identification.

26. By adding a new Subpart 111.92 to read as follows:

**Subpart 111.92—Mobile Offshore Drilling Units**

- Sec.
- 111.92-1 Definition.
  - 111.92-3 Intrinsically safe electrical equipment.
  - 111.92-5 Class I, Division 1 locations.
  - 111.92-7 Class I, Division 2 locations.
  - 111.92-9 Contiguous locations.
  - 111.92-11 Electrical equipment in classified locations.

*AUTHORITY:* Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

**Subpart 111.92—Mobile Offshore Drilling Units**

§ 111.92-1 Definition.

As used in this subpart, "semi-enclosed location" means a location where natural conditions of ventilation are notably different from those on open decks due to the presence of structures such as roofs, windbreaks or bulkheads.

§ 111.92-3 Intrinsically safe electrical equipment.

(a) This section applies to each mobile offshore drilling unit.

(b) Only intrinsically safe electrical equipment approved for a Class I, Division 1 Location may be installed in the following locations:

(1) The internal space of each pressure vessel, tank, pipe, or gas vent of the mud circulating system between the well and the final degassing discharge.

(2) Any space in which an oil-gas-air mixture is continuously present under normal operational conditions.

§ 111.92-5 Class I, Division 1 locations.

The following are Class I, Division 1 locations:

(a) An enclosed space that contains any part of the mud circulating system that has an opening into the space and is between the well and final degassing discharge.

(b) An enclosed or semi-enclosed location that is below the drill floor, and contains a possible source of gas release.

(c) An enclosed space that is on the drill floor, and is not separated by a

solid, gas-tight floor from the spaces specified in paragraph (b) of this section.

(d) A space that would normally be considered a Division 2 location under § 111.92-7 but where combustible or flammable gases might accumulate.

(e) A location in the weather, or a semi-enclosed location, except as provided in paragraph (b) of this section that is within 1.5 m (5 ft.) of the boundary of any—

(1) Equipment or opening specified in paragraph (a) of this section;

(2) Ventilation outlet, access, or other opening to a Class I, Division 1 space; or

(3) Gas vent outlet.

(f) Except as provided in § 111.92-9, an enclosed space that has an opening into a Class I, Division 1 location.

§ 111.92-7 Class I, Division 2 locations.

The following are Class I, Division 2 locations:

(a) An enclosed space that has any open portion of the mud circulating system from the final degassing discharge to the mud suction connection at the mud pit.

(b) A location in the weather that is—

(1) Within the boundaries of the drilling derrick up to a height of 3 m (10 ft.) above the drill floor;

(2) Below the drill floor and within a radius of 3 m (10 ft.) of a possible source of gas release; or

(3) Within 1.5 m (5 ft.) of the boundaries of any ventilation outlet, access, or other opening to a Class I, Division 2 space.

(c) A location that is—

(1) Within 1.5 m (5 ft.) of a semi-enclosed Class I, Division 1 location indicated in § 111.92-5(b); or

(2) Within 1.5 m (5 ft.) of a Class I, Division 1 space indicated in § 111.92-5(e).

(d) A semi-enclosed area that is below and contiguous with the drill floor to the boundaries of the derrick or to the extent of any enclosure which is liable to trap gasses.

(e) A semi-enclosed derrick to the extent of its enclosure above the drill floor or to a height of 3 m (10 ft.) above the drill floor, whichever is greater.

(f) Except as provided in § 111.92-9 an enclosed space that has an opening into a Class I, Division 2 location.

§ 111.92-9 Contiguous locations.

An enclosed space that has direct access to a Division 1 or Division 2 location is the same division as that location, except—

(a) An enclosed space that has direct access to a Division 1 location is not a hazardous location if—

(1) The access has self-closing gas-tight doors that form an air lock;

(2) The ventilation causes greater pressure in the space than in the Division 1 location; and

(3) Loss of ventilation overpressure activates an alarm at a manned station.

(b) An enclosed space that has direct access to a Division 1 location can be considered as a Division 2 location if—

(1) The access has a self-closing, gas-tight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 1 location; and

(3) Loss of ventilation activates an alarm at a manned control station; and

(c) An enclosed space that has direct access to a Division 2 location is not a hazardous location if—

(1) The access has a self-closing, gas-tight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 2 location; and

(3) Loss of ventilation activates an alarm at a manned control station.

**§ 111.92-11 Electrical equipment in classified locations.**

Electrical equipment and devices installed in spaces made non-hazardous by the methods indicated in § 111.92-9 must only be essential equipment.

26. By adding a new Subpart 111.94 to read as follows:

**Subpart 111.94—Mobile Offshore Drilling Unit Industrial Systems**

**§ 111.94-1 Industrial systems.**

A system on a mobile offshore drilling unit that is used only for the industrial function of the unit and meets the National Electrical Code need not meet this subchapter except—

(a) The Underwriters' Laboratories, Inc. standards in § 110.10-1(e) of this subchapter;

(b) NEMA standards in § 110.10-1(c) (1) and (2) of this subchapter;

(c) Section 111.05-5—Plan approval;

(d) Section 111.05-15—General considerations;

(e) Section 111.60-25(f)—Ship structure as a conductor;

(f) Section 111.60-30—Engine starting;

(g) Subpart 111.92—Mobile offshore drilling units; and

(h) Cables that penetrate a deck or bulkhead must—

(1) Be installed in accordance with § 111.60-1(k); and

(2) Meet the flammability test requirements of Section 18.13.5 of IEEE Std. No. 45.

**PART 112—EMERGENCY LIGHTING AND POWER SYSTEM**

28. By adding a new § 112.05-10 (e) and (f) to read as follows:

**§ 112.05-10 Emergency lights.**

(e) On a mobile offshore drilling unit, the distribution panels required in paragraph (b) of this section may be in the control room.

(f) On a mobile offshore drilling unit, the switches required in paragraph (c) of this section may be in the control room.

29. By adding a new § 112.15-5(c) and revising § 112.15-5(f) to read as follows:

**§ 112.15-5 Final emergency source leads.**

(c) Each electric blow-out preventer control system on a mobile offshore drilling unit.

(f) One of the fire pumps, if dependent upon the emergency generator for its source of power to comply with

Part 34 of Subchapter D (Tank Vessels), Part 76 of Subchapter H (Passenger Vessels), Part 95 of Subchapter I (Cargo and Miscellaneous Vessels), or Part 108 of Subchapter IA (Mobile Offshore Drilling Units) of this chapter.

**PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT**

30. By adding a new § 113.25-5(e) to read as follows:

**§ 113.25-5 Operation.**

(e) Each mobile offshore drilling unit must have a manually operated contact maker for the general alarm system—

(1) In the main control room;

(2) At the drilling console;

(3) In the space that has the feeder distribution panel;

(4) In the wheelhouse if a wheelhouse is installed; and

(5) In a location that is as far as practicable from each other contact maker.

(Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46 (b) and (n)(6).)

Dated: November 21, 1978.

J. B. HAYES,  
Admiral, U.S. Coast Guard  
Commandant.

[FR Doc 78-33799 Filed 12-1-78; 8:45 am]

**Register**  
**Federal Register**

**MONDAY, DECEMBER 4, 1978**

**PART IV**



---

**DEPARTMENT OF  
TRANSPORTATION**

**Coast Guard**

**OFFSHORE OIL  
POLLUTION LIABILITY  
AND COMPENSATION**

**Proposed Rulemaking**

[4910-14-M]

## DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 130, 131]

(CGD 77-055)

OFFSHORE OIL POLLUTION LIABILITY AND  
COMPENSATION

Proposed Rules

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rule-  
making.

**SUMMARY:** The Coast Guard proposes to issue regulations to implement parts of Title III of the Outer Continental Shelf Lands Act Amendments of 1978. Title III creates a scheme of strict liability and compensation for the economic consequences of oil spilled as a result of activities on the Outer Continental Shelf and establishes a Federally administered fund to provide compensation for losses which are not otherwise compensated. The intended effect of this rulemaking is to propose requirements for establishment of financial responsibility, settlement and adjudication of claims, notification of incidents, designation of sources of oil pollution, and advertisement of claims procedures.

**DATES:** 1. Comments must be received on or before January 18, 1979. 2. Public Hearings: The Coast Guard will hold public hearings on the proposals in this notice on January 4, 1979 beginning at 9:30 a.m. in the Prince of Wales Room, 2d Floor, Hilton Hotel, Poydres at the Mississippi River at New Orleans, La. and on January 8, 1979 beginning at 9 a.m. in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C.

**ADDRESS:** Comments should be submitted in writing to Commandant (G-CMC/81), U.S. Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION  
CONTACT:

Frank A. Martin, Jr. (202) 426-2606  
(7:30 a.m. to 4 p.m.).

**SUPPLEMENTARY INFORMATION:** The Coast Guard invites the public to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include his or her name and address, identify this notice (CGD 77-055), the specific item or items being commented upon, and give detailed reasons for any suggestions, arguments, objections or recommendations submitted. All comments received will be considered as fully as possible before final action is taken on

the proposals in this notice; however, the statutory authority under which these rules are being issued requires final action by March 17, 1979. To facilitate the comment evaluation stage of this rulemaking and assure a full and careful consideration of all comments received, commenters are asked to key each comment to the particular section of the proposed rule to which it applies.

AVAILABILITY OF MATERIALS IN  
RULEMAKING DOCKET

Comments received will be available for examination during normal business hours, 7:30 a.m. to 4 p.m., in Room 8117 at the above address. Also available at that address, for public inspection, are copies of the Regulatory Analysis from which the economic summary in this document is taken and the Environmental Assessment prepared for this rulemaking action. Copies of materials in the docket, including the public hearing transcripts when they become available, will be furnished to interested persons upon request to the Executive Secretary (G-CMC/81) at the above address and payment of the fees prescribed in 49 CFR 7.95.

## PUBLIC HEARING INFORMATION

Interested persons are invited to attend the scheduled public hearings and present oral or written statements on the proposals in this document. The hearings will be informal and presided over by a Coast Guard official. Persons planning to make hearing presentations are encouraged to submit their views in writing in advance, and should notify Mr. Martin at least 10 days before the scheduled hearing dates, specifying the approximate length of time needed for their presentation. Time limitations may be imposed by the presiding officer, within the officer's sole discretion. Organizations or groups of individuals are requested to limit their presentations to a single speaker on behalf of the organization or group. Procedural details regarding the conduct of each hearing will be announced at the beginning of the hearing.

## PUBLIC COMMENT PERIOD

For reasons discussed elsewhere in this preamble, the Coast Guard has determined that this proposed rulemaking constitutes a significant regulation". Under current departmental regulatory policy, the general public should be allowed at least 60 days to comment upon proposed significant regulations. In the few instances where the initiating office determines this is not possible, the proposal is to be accompanied by a brief statement of the reasons for a shorter time period for public comment.

Because the statutory authority under which the rules in this document are being promulgated requires that they be developed, finalized, and effective on the 180th day after the date of enactment of the authorizing statute, i.e., by March 17, 1979, the Coast Guard determined that it can allow the public only 45 days in which to prepare and submit its comments on the proposals in this document. The Coast Guard believes this to be a reasonable time period under the circumstances, because, in addition to this publication in the FEDERAL REGISTER, it has made a direct mailing of this notice to those parties most affected by the proposed rules and issued appropriate news releases to assure timely dissemination. The Coast Guard has also involved a wide range of potentially affected interest in the early development of this rulemaking.

## DRAFTING INFORMATION

The principal persons involved in this rulemaking action are: Mr. Frank A. Martin, Jr., Project Manager, Office of Marine Environment and Systems and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

## BACKGROUND

On September 18, 1978, the President signed into law the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372) (the Act). Title III of that Act imposes liability for the consequences of oil pollution from offshore activities on the owners, operators, and guarantors of the sources of such pollution and specifies requirements for evidence of the ability to meet that liability. The Act also establishes an Offshore Oil Pollution Compensation Fund (the Fund) which is to be administered jointly by the Secretary of Transportation and the Secretary of the Treasury. The principal purpose of the Fund is to ensure that money is available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf (OCS) and to compensate for any damages to public or private interests caused by such spills or discharges, when, for whatever reason, payment is not made by the source of such oil pollution.

While the offshore Fund under Title III of the Act focuses on providing a uniform liability and compensation scheme for pollution incidents arising in connection with OCS activities, it is expected that legislative initiatives will mature that will, in effect, expand the scope of the Fund to include coverage of virtually all marine oil pollution, including that discharged from onshore facilities and Deepwater Ports. With this in mind, the Coast Guard's regulatory approach reflected

in this proposed rulemaking notice for implementing Title III considers the eventuality of a "Comprehensive Oil Pollution Liability and Compensation" scheme or "Superfund".

The increased scope of claims authorized by Title III, as opposed to claims heretofore primarily limited to cleanup costs under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321), represents a significant shift in Federal Government policy regarding damages caused by and claims originating from oil pollution. Under Title III there will be a greater degree of Federal Government involvement in compensation for damages from OCS oil pollution, including control of liability and financial responsibility requirements of parties connected with U.S. OCS petroleum production.

The Congress assigned the Secretary of Transportation major regulatory and administrative responsibilities regarding implementation of Title II. With the exception of the authority to appoint special three-member panels to hear and decide disputes under section 307(h) of the Act, and the authority to refer a disputed claim to such panel under section 307(i)(1) of the Act, it is expected the Secretary will delegate his responsibilities under Title III to the Commandant, U.S. Coast Guard.

A brief summary of the major provisions of Title III follows.

#### FUND ADMINISTRATION

The Secretary of Transportation and the Secretary of the Treasury share administrative responsibility for the Fund, which is authorized to be maintained at a level of not less than \$100 million nor more than \$200 million. The Fund is to be supported by a fee, not to exceed \$.03 per barrel (bbl.), on all oil produced from the OCS. The Fund will also be supplemented by fines and penalties collected and interest earned. In addition to payment for oil spill removal and damage claims arising in connection with OCS activities not otherwise compensated, the Fund is also available for administrative costs of operating the Fund.

It does not appear likely that Fund revenues will approach the \$200 million level in the near future. Based upon current OCS production the Coast Guard estimates that Fund revenue for the first year will be approximately \$10 million, generated by levying the maximum \$.03 bbl. fee authorized.

Under the statute, the Secretary of Transportation levies the per barrel fee which is imposed on the owner of the oil at the point where it is actually produced. The Secretary of the Treasury is given the statutory authority to collect the fees on behalf of the Fund.

In this regard, the Secretary of the Treasury may, after consulting with the the Secretary of Transportation, promulgate regulations regarding actual fee collection and payment procedures. The per barrel fee may, by regulation, be modified from time to time by the Secretary of Transportation, to assure that the Fund does not exceed its statutory ceiling, but is still able to meet potential obligations.

The Act also give the Secretary of the Treasury authority to identify records and documents required to be maintained, and accessible for audit and examination by those subject to payment of the barrel fee.

The Secretary of Transportation may determine the Fund balance required to meet potential obligations, and borrow from the treasury, as necessary, to maintain such balance. The Secretary of Transportation may also promulgate regulations designating those persons who may obligate Fund monies.

#### LOSSES COVERED

The Act imposes liability for economic loss resulting from or arising out of oil pollution from OCS activities as follows:

- (1) Removal and cleanup cost;
- (2) Injury to, or destruction of, property;
- (3) Loss of property;
- (4) Injury to, or destruction of natural resources;
- (5) Loss of use of natural resources;
- (6) Loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; and
- (7) Loss of tax revenue for a period of one year due to injury to real or personal property.

#### LIABILITY

The Act imposes, with certain exceptions, strict liability for all loss on the owner and operator of the source of offshore oil pollution, up to certain limits. Except in certain cases, total liability of a vessel is \$250,000 or \$300 per gross ton, whichever is greater, plus all removal costs incurred by the Federal government of any State or local government; total liability for an offshore facility is all removal costs, plus up to \$35,000,000 for all damages. In cases of gross negligence or willful misconduct of the owner or operator of vessels or facilities, liability is unlimited. The Fund is liable, without limitation, for all damages and removal costs to the extent that the loss is not compensated from other sources. If gross negligence or willful misconduct on the part of the claimant contributed to the damages, there is no liability to that claimant.

Liability is unlimited in the case where the owner or operator of a

vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities following a pollution incident. This provision requires that a determination be made as to whether reasonable cooperation and assistance has been provided. Most of the vessels affected by the Act are barges which transport oil from platforms to shore. There are twelve barging systems in operation in the Gulf of Mexico handling an average of 20,000 barrels a day of OCS oil from approximately 70 leases. There is one known self-propelled vessel which performs similar operations with OCS oil off the California coast. Vessel transport accounts for movement of 3% of all oil produced on the OCS. The remainder is moved by pipeline.

The facilities covered by the Act include platforms, mobile offshore drilling units, pipelines, storage facilities and any other structure which is used to drill for, transfer, store, produce, handle, process, or transport oil produced from the OCS. There are now about 2,300 platforms on the OCS with all but a few in the Gulf of Mexico. There are approximately 120 mobile offshore drilling units in operation in several OCS locations including the Gulf of Mexico, the Santa Barbara channel and the Baltimore Canyon. There are over 57 million feet of pipelines operated by 66 companies in the Gulf of Mexico alone. Plugged and abandoned wells number over 6,600.

This notice does not contain any proposed regulations regarding the liability provisions of Title III of the Act. Rather, the Coast Guard chooses to defer to the statute in this area and reevaluate the need for any liability regulations after experience is gained with the operation of the Fund.

#### FINANCIAL RESPONSIBILITY

In general, the Act requires the owner or operator of an offshore facility to establish and maintain evidence of financial responsibility in the amount of \$35,000,000. The Act also requires vessel owners or operators to establish and maintain evidence of financial responsibility in varying amounts. The authority of the President to promulgate regulations concerning financial responsibility is expected to be delegated, in the case of offshore facilities, to the Secretary of Transportation, who, in turn, will delegate that authority to the Commandant, and in the case of vessels, to the Federal Maritime Commission (FMC), which currently issues Certificates of Financial Responsibility to vessels under the Federal Water Pollution Control Act (33 U.S.C. 1321).

#### NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

Any person involved in a discharge of oil subject to Title III is required to immediately notify the Secretary of Transportation when such an incident occurs or is imminent. Upon the Secretary's designation of the source of a discharge, the person or organization so designated shall advertise the designation and procedures by which damage claims are to be presented. The Act provides general guidelines on, and time limits for, these procedures. The implementing regulations proposed in this document incorporate and amplify these statutory guidelines for notification, designation and advertisement.

The Act also prescribes when advertisement will be performed by the Fund; i.e., for cases where the vessel or facility owner or operator involved denies a source designation, fails to advertise in a timely fashion, or where the source of the pollution is unknown or is a public vessel.

#### CLAIMS SETTLEMENT

The basic premise of the claims settlement provisions of the Act is that claims are to be presented first to the owner, operator, or guarantor of the source. A claim is presented directly to the Fund only when the owner, operator, and guarantor fail to settle the claim within 60 days or deny the designation or when the source is unknown or is a public vessel. The Secretary of Transportation's authority to promulgate regulations for the appraisal and settlement of claims against the Fund will be delegated to the Commandant.

#### SUBROGATION

The Act provides that any person or government entity, including the Fund, who makes payment on a claim under the Act, acquires by subrogation the rights of that claimant to recover the cost or damage covered by the payment. Thus, if the Fund pays claims, it will seek reimbursement from the source of the pollution.

Potential defendants in actions by the Fund to recover costs or damages are separated into two classes for the purpose of differentiating their respective rights to dispute claims settlements. If the Fund proceeds against an owner, operator, or guarantor who either denies a designation or who denies liability, the owner, operator, or guarantor cannot protest the amount involved except to the extent that the amount exceeds their liability. If, however, the owner, operator or guarantor accepts a designation and attempts to negotiate with a claimant, the owner, operator, or guarantor has a right to contest any amount paid by the Fund in excess of the largest amount of-

ferred by the owner, operator or guarantor in settlement to the claimant.

#### RELATIONSHIP TO OTHER LAW

The Act does not preempt existing State liability requirements or preclude a State from imposing, within State jurisdiction, new or additional requirements for liability for either damages or removal costs, or both.

Claimants who are eligible under both the Act and a State law may seek reimbursement for damages and removal costs under either law. However, any person who receives compensation under a State law is precluded from compensation for those damages and removal costs under the Act.

#### PENALTIES

The Act subjects persons who violate the financial responsibility requirements of the Act and of regulations thereunder to a civil penalty not to exceed \$10,000. The Act also imposes the same penalty on those who violate an order denying a vessel entry into navigable waters of the United States or detaining it at a U.S. port because of failure to show a certification of financial responsibility.

The assessment of penalties relating to financial responsibility for offshore facilities, denial and detention orders for vessels, and the Coast Guard's right of access to vessels and offshore facilities in order to verify certification of financial responsibility will be performed by the Coast Guard under 33 CFR 1.07.

#### GENERAL DISCUSSION OF PROPOSED REGULATIONS

The primary objective of this rule-making action is to develop and prescribe the Federal policies, procedures and administrative requirements necessary to the operation of the Fund. In pursuit of this objective the Coast Guard believes regulations are necessary in the following areas:

- a. Methods and procedures for the adjudication and settlement of claims.
- b. Requirements for establishing and maintaining evidence of financial responsibility for offshore facilities.
- c. Designation, notification and advertisement requirements, to be followed when an oil pollution incident occurs.
- d. The levy of the per barrel fee owners of OCS oil are to pay to Fund.
- e. Denial and detention orders for vessels.

The proposed regulations are the minimum necessary to implement the Secretary of Transportation's authority under Title III of the Act and communicate the system of Fund operation. The following segments of the general public are directly affected by the proposed regulations.

a. Owners and operators of offshore facilities and their guarantors, who must meet liability and financial responsibility requirements, and damage claim obligations.

b. Persons who suffer oil pollution damage or removal costs and are eligible claimants within the context of Title III of the Act.

c. Certain vessel owners and operators required to comply with FMC's regulations under Title III, and meet damage claim obligations.

#### REGULATORY ANALYSIS

The Coast Guard considers this regulatory action to be a "significant" rulemaking action under current Departmental guidelines for "Improving Government Regulations", published in the FEDERAL REGISTER (43 FR 23925-33) on June 1, 1978. The proposed regulations deal with oil spill liability and compensation for damages arising from oil pollution, a matter of substantial public interest and controversy. The increased financial certification and claims adjudication requirements imposed upon firms connected with the U.S. OCS petroleum industry represent a significantly greater degree of Federal Government involvement in that industry than has previously existed. Finally, it is expected that these regulations will impact upon, and must be consistent with the regulatory and administrative approach taken by the other Federal agencies assigned responsibilities under Title III, principally the Treasury Department. For these reasons a Regulatory Analysis has been prepared.

The Regulatory Analysis discusses the major alternatives considered by the Coast Guard during development of the proposals in this document. That analysis, presently in draft form, contains a detailed description of the major regulatory alternatives considered, the economic and other relevant consequences of each alternative, and the reasons for selecting the proposals in this document. Based on that Analysis, the Coast Guard has concluded that the proposed regulations are basically procedural in nature and, consequently are not likely to have a major general economic impact in terms of costs, consumer prices, or production; nor upon individual industries, levels of government, or geographic regions. The draft Regulatory Analysis will be revised, as appropriate, in light of comment received from this notice, and finalized concurrently with the promulgation of the final regulations.

The cost to industry of meeting the financial responsibility requirements of the proposed regulations is of critical importance. Due to the nature of the liability imposed by the Act, there is some question as to whether the

surety, guarantee, or insurance options will be available to those who may desire to establish evidence of financial responsibility by one of those methods. The consequence of such options not being available would be the necessity for relatively small firms, those unable to self-insure, to cease petroleum production operations on the OCS. In such a case there might be a reduction in competition in the industry, a reduction in production volume, and ultimately, an increase in the cost of OCS petroleum to the consumer.

Preliminary inquiry conducted by the Coast Guard indicates that the surety, guarantee, and insurance options probably will be available given the requirements for evidence of financial responsibility established by the regulations as presently proposed. However, the Coast Guard has been unsuccessful in its efforts to determine the cost associated with establishing evidence of financial responsibility by any of those methods. A study is to be conducted pursuant to section 305(d) of the Act to determine whether adequate insurance will be available. Public comment regarding the expected impact of this aspect of the proposed regulations is greatly desired by the Coast Guard.

#### ENVIRONMENTAL ASSESSMENT

The Coast Guard has considered the environmental impact of the proposed regulations and concluded that preparation of an environmental impact statement is not necessary. A Negative Declaration has been prepared and is on file in the rulemaking docket.

#### EFFECTIVE DATE

Section 315(b) of the Act requires that the regulations authorized in Title III be effective on the 180th day after enactment. Section 313(c) requires appropriation act enactment before collecting or spending is authorized. The effective date of these proposals, as may be modified by changes resulting from this notice, will be no earlier than March 17, 1979, or after the appropriation act enactment, whichever occurs later.

#### SPECIFIC DISCUSSION OF PROPOSED REGULATIONS

All the regulations for implementing the responsibilities assigned to the Secretary of Transportation under Title III of the Act are contained in proposed new Parts 130 and 131. The proposed rules prescribe only the minimum necessary to explain to those persons affected by the Act the details worked out for the actual operation of the Fund. In some instances the rules in Parts 130 and 131 do not place a specific requirement or burden on any particular individual, but de-

scribe internal agency procedures and practices regarding administration of the Fund.

Proposed § 130.3 identifies those segments of the public that are affected by the proposed regulations. Paragraph (a)(1) thru (4) of the section identify the specific segments of the general public upon which the Act and these regulations place major responsibilities regarding liability and financial responsibility for oil pollution incidents arising in connection with OCS activities. Paragraph (a)(5) of this section is merely a statement intended to indicate that there are persons other than those listed in paragraph (a)(1) thru (4) that are affected less directly by the Act and these implementing regulations.

Section 302 (d)(1) of the Act requires the Secretary to levy a barrel fee not to exceed \$.03 per barrel on the owners of oil produced on the OCS. Proposed § 130.103 in Subpart B is the actual levy of the barrel fee on the owner of OCS oil. The levy of the maximum fee allowed under the Act is predicated upon Coast Guard analysis that the maximum barrel fee is necessary to build the Fund up to an operating level adequate to meet anticipated obligations. Based on current statistics on oil produced on the OCS it appears the fee will remain at the full \$.03 per barrel permitted by the Act for the foreseeable future.

Proposed § 130.103(b) contains the criteria for determining when oil is "produced" and thus subject to the \$.03/bbl. fee levied by paragraph (a) of the section.

Proposed § 130.105 states how the Commandant will modify the barrel fee imposed on OCS oil produced, as necessary to keep the Fund balance within the levels authorized by the Act.

Proposed Subpart C, §§ 130.201-223 contain the requirements believed necessary for establishing and maintaining evidence of financial responsibility for facilities.

Evidence of financial responsibility could be established by allowing private insurance companies, bonding agencies, or guarantors to issue certification verifying that the owner or operator of an offshore facility has the financial capability to meet specified limits of liability. Such evidence could also be established by requiring that the Fund issue that certification. The selection of one of those alternatives involves the decision to impose the administrative cost of certification of financial responsibility on either private industry or the Fund.

It may be argued that because offshore facilities are always subject to United States jurisdiction and are not in most cases readily movable, private insurance companies, bonding agen-

cies, or guarantors should be allowed to issue certification of financial responsibility to an owner or operator of an offshore facility. However, because it is expected that a significant percentage of owners and operators will be self-insured, which will require that the Fund issue a large percentage of certificates, because the Fund might not have legal authority to revoke certification issued by a private company, because certification must be completed in a timely fashion, and because the Coast Guard desires that certification be of uniform quality and appearance, it has been decided that evidence of financial responsibility will be established by having the Fund issue certification verifying that the owner or operator of an offshore facility has the financial capability to meet specified limits of liability. Proposed Subpart C reflects this decision throughout the subpart.

For the purpose of the rules in proposed Subpart C, a mobile offshore drilling unit is considered to be an offshore facility rather than a vessel when it becomes attached to the seabed for exploration, development, or production of oil.

The definition of "vessel" in section 301(5) of the Act precludes by the language " \* \* \* and which is transporting oil directly from an offshore facility \* \* \* ", the placement of mobile offshore drilling units in the category of a "vessel" under Title III because such units are not normally used for transporting oil. The owners and operators of mobile offshore drilling units must establish and maintain evidence of financial responsibility as required for an "offshore facility" under section 305(b) of the Act, when engaged in drilling for, producing, or processing oil on the OCS. The applicability of the offshore facility financial responsibility requirements proposed in Subpart C includes a specific reference to mobile offshore drilling units in proposed § 130.201(b).

An application needs to be made for each facility but an owner or operator need only provide evidence in the amounts proposed in § 130.203. This provision would not lessen the multiple liability of the owner or operator and is not to be construed to include insuring only the largest facility.

An owner or operator of an offshore facility is required to have evidence of financial responsibility in the amount of \$35,000,000. Because the likelihood that an owner or operator, or guarantor of an owner or operator, will be involved in more than one incident increases with an increase in the number of offshore facilities operated at any given time, the Coast Guard has required in proposed § 130.203 that, where evidence of financial responsibility is by guarantee, surety bond, or

self-insurance, covering more than one offshore facility, there must be additional assets available to pay any damages arising out of multiple incidents.

However, because the dollar amount of the probable damages to which an owner or operator, or guarantor of an owner or operator, may be exposed by reason of the operation of more than one offshore facility at any given time is not directly proportional to the number of offshore facilities operated, the increase in assets required to cover more than one offshore facility progressively decreases for each additional offshore facility. Thus, the self-insured owner or operator of more than one offshore facility is required to have only \$8 million in additional assets for the second offshore facility, \$4 million for the third offshore facility, \$2 million for the fourth offshore facility, and \$1 million for the fifth offshore facility. No additional assets will be required for the sixth and subsequent offshore facilities.

The procedures for applying for certificates of financial responsibility are proposed in § 130.215. This section proposes a single application form that is sufficiently flexible to accommodate the range of alternatives, or combination thereof, of methods available to a facility owner for establishing financial responsibility. The Coast Guard is developing the single form application concept to minimize paperwork and reporting requirements for the facility owners and operators and their guarantors.

The single application form will contain only the basic information neces-

sary to issue and maintain the certificate of financial responsibility. The endorsement side of the form (reverse side), to be completed by the guarantor, surety, or insurer will establish their liability and provide a mechanism for the Fund Administrator to check compliance with the applicable provisions of proposed Subpart C.

The purpose of requiring that an application form be submitted for each facility (proposed § 130.215(b)) is to enable quick processing of changes, additions, and deletions of facilities of record without changing the previously furnished evidence when that is unnecessary. The reference on the face of the form to primary and secondary certificate numbers is to facilitate the administrative process of reviewing financial evidence and keeping issued certificates current. The primary number will locate for the Fund Administrator the initial evidence furnished as regards the particular insurer, guarantor, or surety for a facility. The secondary number will identify the specific owner and facility.

It is intended that the single application form and endorsement thereon, together with any attached supporting financial data required as evidence, complement the proposed Subpart C regulations and achieve a rather simple administrative process for assuring that the financial responsibility requirements of the Act are met. Public comment on the draft application form proposed herein is specifically desired to assist in finalizing the form in a manner that will achieve the above intent.

[4910-14-C]

OUTER CONTINENTAL SHELF LANDS ACT
APPLICATION FOR CERTIFICATE OF FINANCIAL RESPONSIBILITY

Instructions: Complete every item in the application and forward through your insurance company, guarantor, or surety for completion of the reverse side. One form for each facility; type or print clearly; where appropriate place the number in the box.

Do Not Write in this Block

Legal name of applicant
Trade name if different
Address
City State Zip Code

Contact: Name

Area Code Telephone Number

I/We are filing for a Certificate of Financial Responsibility as:

- 1. Owner 2. Operator 3. Owner & Operator

If filing as operator the owners name and address is:

Name

Address

City State Zip code

Type of Facility: 1. Refinery 2. Drilling Structure 3. Oil Storage 4. Transfer Terminal 5. Pipeline 6. Other (specify)

I/We are filing for a: 1. New Certificate 2. Renewal 3. Additional 4. Replacement for lost

If renewal or replacement fill out primary and secondary certificate number
If additional, only primary certificate number is necessary. If new leave blank.

Primary Certificate Number Secondary Certificate Number

I/We elect to establish financial responsibility by: 1. Insurance 2. Surety Bond 3. Guarantee 4. Self Insurance

If more than one method of financial responsibility is selected the order of liability liquidation will be: 1st \$ 2nd \$

1. Insurance 2. Surety Bond 3. Guarantee 4. Self Insurance

Lease number, area block, identification name and number, and other description of facility that is recognized and will clearly distinguish your liability area:
Lease #, Area Block

Type of organization: 1. Corporation 2. Individual 3. Partnership 4. Joint Stock Co 5. Association 6. Syndicate 7. Business Trust 8. Mining Partnership 9. Other (specify)

Name of State or Country in which incorporated or organized:

Date of organization or incorporation:

If Applicant is a U.S. entity and it chooses to appoint itself as agent for service of process check here: otherwise the designated U.S. agent for service of process is:

Name Address

I agree to be the agent for service of process:

Signature title date

I hereby certify the above information is correct to the best of my knowledge and I agree to notify the Fund Administrator of any changes in the above information.

CG Form Approved:

OMB Number

Signature

Title date

SAMPLE

1st \$ \_\_\_\_\_

For the facility listed on the front of this form, I/We agree to be the designated:

- Insurer in accordance with 33CFR 130.207.
- Guarantor in accordance with 33CFR 130.209.
- Surety in accordance with 33CFR 130.211.
- Self Insurer in accordance with 33CFR 130.213.

I/We agree to comply with the indicated regulations and will notify you if, at any time, the financial position decreases to a point that I/We cannot support the liability as guarantor indicated in 33CFR 130.

Name \_\_\_\_\_  
Address: \_\_\_\_\_

Contact for Claims: \_\_\_\_\_  
Address: (if different) \_\_\_\_\_  
Phone number of contact: \_\_\_\_\_  
Area code Phone number

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

S  
A  
M  
P  
L  
E

2nd \$ \_\_\_\_\_

For the facility listed on the front of this form, I/We agree to be the designated:

- Insurer in accordance with 33CFR 130.207.
- Guarantor in accordance with 33CFR 130.209.
- Surety in accordance with 33CFR 130.211.
- Self Insurer in accordance with 33CFR 130.213.

I/We agree to comply with the indicated regulations and will notify you if, at any time, the financial position decreases to a point that I/We cannot support the liability as guarantor indicated in 33CFR 130.

Name \_\_\_\_\_  
Address: \_\_\_\_\_

Contact for Claims: \_\_\_\_\_  
Address: (if different) \_\_\_\_\_  
Phone number of contact: \_\_\_\_\_  
Area code Phone number

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Mail completed form to: Fund Administrator  
G-W/73  
400 7th Street S.W.  
Washington, D. C. 20590

If Guarantor or Self Insurer, appropriate statements must be attached unless previously submitted. If previously submitted check here

As a practical matter it is not possible to process requests from the owners, operators, or guarantors of offshore facilities for the issuance of certificates of financial responsibility so as to have the certificates on the facilities within the time frame intended by Congress, i.e., the 180th day after enactment of the Act. Therefore, the rule proposed in §130.215(a)(1) will most probably be waived to allow applicants for certificates of financial responsibility sufficient time to make the required application. Public comment is also specifically invited as to what the "sufficient time" should be, taking into consideration the time an applicant would require to arrange for insurance, bonding, or guarantee, or to gather appropriate supporting financial data to comply with the financial responsibility provisions of proposed Subpart C.

The proposed regulations for Subpart C contain no administrative sanctions against facilities, similar to those prescribed for vessels in proposed Subpart E because none are authorized by the Act. However, in addition to the administrative sanctions in proposed §130.401 against vessels, failure of an owner or operator of either a vessel or a facility to meet the requirements of financial responsibility subjects that person to the civil penalty provided in section 312(a)(1) of the Act.

Subpart D, §§130.301-130.319 are proposed regulations governing notification, designation and advertisement requirements associated with a pollution incident. These procedures deal with contacts and communications between claimants and the owners, operators, and guarantors of facilities and vessels which have been designated as the source or sources of oil pollution. Since the nature of the functions covered in proposed Subpart D are more operationally oriented rather than administrative, the term "Commandant" is used throughout this subpart in lieu of the term "Fund Administrator" used in the other proposed subparts.

In view of the similarity of the notification requirements in section 306 of the Act to the notification requirements under the Federal Water Pollution Control Act (FWPCA), as amended, and to avoid duplication of effort, the notification procedures in proposed §130.305 are essentially the same as those which already exist in 33 CFR 153.203. The one important distinction is that the Act requires notification of "imminent threats," which is not required under the FWPCA. In an effort to clarify what constitutes an imminent threat, proposed §130.303(a)(3) defines "occurrences which impose an imminent threat of oil pollution." Notifications under proposed §130.305 would also

satisfy the provisions of 33 CFR 153.203.

It is anticipated that most of the functions assigned to the Commandant in proposed Subpart D will, in practice, be carried out by Federal On Scene Coordinators. The Notice of Designation proposed in §130.309 for designating the source of an oil spill incident contains much of the information which is currently provided by the notice of Federal interest which is issued under FWPCA auspices. Failure to deny designation is not an acceptance of liability. If, subsequently, it is determined that a designated source was not responsible for the discharge, or has a defense to liability, that source would have recourse to the Fund or to other parties for reimbursement.

Section 130.313 proposes that the commandant determine advertising requirements, if any, that will be applied to each oil pollution incident and the criteria upon which that determination is made. This proposal reflects an interpretation of section 306(b)(2) of the Act that advertising may not be required or necessary in all cases, but rather, should depend upon the circumstances of each incident.

Proposed §130.315 lists acceptable types of advertisement. The type or types of advertisement required for each specific oil pollution incident, if any, will be determined by the Commandant, along with the required frequency and geographical scope (proposed §130.317). The contents of each advertisement are proposed in §130.319.

Although the statutory authority regarding the establishment and maintenance of vessel financial responsibility was given to the President who will probably delegate that responsibility to the FMC, the Act specifically directs the Secretary of Transportation to issue regulations concerning sanctions against vessels which do not adhere to FMC financial responsibility requirements. Accordingly, these regulations appear in proposed Subpart E and include the conditions under which the vessel sanctions will be imposed and removed. By expected delegation from the Secretary, the Commandant will administer sanctions against vessels.

The regulations proposed in Part 131 prescribe the procedures and requirements for the presentation, consideration and settlement of claims against the Fund.

The Act requires, to the extent possible, the use of the facilities and services of private insurance and claims adjusting organizations, or State agencies, to process claims against the Fund. It should be noted that State agencies cannot, under the Act, settle claims of that State. For this reason it

is thought that to utilize a State claims organization would be unnecessarily duplicative of existing private adjuster organizations, particularly in light of the limited number of claims expected. Therefore, for the time being, it is not contemplated that State agencies will be used to process claims against the Fund.

Consequently, the Coast Guard intends to contract with one or more private claims processing organizations to provide nationwide claims processing capability to receive, evaluate, adjust, and settle claims against the Fund, with minimum Federal involvement. It is believed that this approach, which may be modified after the Fund gains experience, will provide the most effective, uniform, and efficient claims processing system.

The regulations proposed in Part 131 are intended to be sufficiently detailed to implement statutory requirements for making and settling claims against the Fund, yet be sufficiently flexible to apply to the myriad of situations which will undoubtedly arise.

In consideration of the foregoing, the Coast Guard proposes to establish new Parts 130 and 131 in a new Subchapter M in Title 33, Code of Federal Regulations, as follows:

**SUBCHAPTER M—MARINE OIL POLLUTION LIABILITY AND COMPENSATION**

**PART 130—OFFSHORE OIL POLLUTION COMPENSATION FUND**

**Subpart A—General**

Sec.  
 130.1 Purpose.  
 130.3 Applicability.  
 130.5 Definitions.  
 130.7 Delegation—Fund Administrator.  
 130.9 Fund address.

**Subpart B—Levy of Fees**

130.101 Purpose.  
 130.103 Levy and payment of barrel fee on OCS oil.  
 130.105 Adjustment of levy.

**Subpart C—Financial Responsibility for Offshore Facilities**

130.201 Applicability.  
 130.203 Amount required.  
 130.205 Methods of establishing evidence.  
 130.207 Insurance as evidence.  
 130.209 Guarantee as evidence.  
 130.211 Surety bond as evidence.  
 130.213 Qualification as self-insurer.  
 130.215 Certification.  
 130.217 Display of certificate.  
 130.219 Notification of changes affecting certification.  
 130.221 Reapplication for certification.  
 130.223 Revocation of certificates.

**Subpart D—Notification, Designation, and Advertisement**

130.301 Purpose.  
 130.303 Definitions.

**NOTIFICATION**

130.305 Notification procedures.

## Sec.

130.307 Notification contents.

## DESIGNATION

130.309 Notice of Designation  
130.311 Denial of designation.

## ADVERTISEMENT

130.313 Advertisement determinations.  
130.315 Types of advertisement.  
130.317 Frequency and geographical scope of advertisement.  
130.319 Content of advertisement.

## Subpart E—Access, Denial and Detention

130.401 Access to facility and vessel Certificates of Financial Responsibility  
130.403 Sanctions for failure to produce vessel Certificates of Financial Responsibility.  
130.405 Appeal provisions.

AUTHORITY: Pub. L. 95-372; 49 CFR 1.46.

## Subpart A—General

## § 130.1 Purpose.

(a) This part prescribes the policies, procedures, and administrative practices regarding offshore oil pollution liability and compensation, including the administration and general operation of the fund established under Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

## § 130.3 Applicability.

(a) This part applies to each person who—

(1) Owns oil obtained from the Outer Continental Shelf when the oil is produced;

(2) Owns, operates, or is the guarantor of the owner or operator of any vessel as defined in § 130.5;

(3) Owns, operates, or is the guarantor of the owner or operator of any offshore facility;

(4) Sustains an economic loss as a consequence of oil pollution arising from Outer Continental Shelf activities; or

(5) Otherwise has responsibilities under Title III of the Act and the regulations in this part.

## § 130.5 Definitions.

(a) As used in this part, the following terms shall have the same meaning as defined in Section 301 of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372): "Barrel"; "claim"; "discharge"; "facility"; "Fund"; "guarantor"; "incident"; "offshore facility"; "oil"; "oil pollution"; "operator"; "owner"; "person"; "person in charge"; "public vessel"; and "vessel".

(b) As used in this part—

(1) "Act" means Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), entitled "Offshore Oil Spill Pollution Fund".

(2) "Captain of the Port" means a Coast Guard officer commanding a Captain of the Port area described in Part 3 of this chapter, or that person's authorized representative or, where there is no Captain of the Port area, a District Commander of a Coast Guard District described in Part 3 of this chapter, or that person's authorized representative.

(3) "Commandant" means the Commandant of the Coast Guard or that person's authorized representative.

(4) "Fund Administrator" means the person to whom the authority and functions of the Commandant as administrator of the Fund are delegated.

(5) "Outer Continental Shelf" or "OCS" means "Outer Continental Shelf" as defined in Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

## § 130.7 Delegation—Fund Administrator.

(a) The Fund Administrator is delegated authority to perform those functions assigned or delegated to the Secretary of Transportation under the Act not reserved by the Secretary of Transportation or the Commandant.

(b) The Fund Administrator may redelegate and authorize successive redelegations of the authority granted in paragraph (a) of this section within the command under which that person has jurisdiction or to members of the Fund staff.

## § 130.9 Fund address.

(a) The address to which correspondence relating to the Coast Guard's administration of the Fund is to be directed and the location of the Fund Administrator is Offshore Oil Pollution Compensation Fund, U.S. Coast Guard Headquarters (G-W/73), 400 Seventh Street, SW., Washington, D.C. 20590.

## Subpart B—Levy of Fees

## § 130.101 Purpose.

(a) The purpose of this subpart is to state the general requirements concerning the levy of fees.

## § 130.103 Levy and payment of barrel fee on OCS oil.

(a) The owner of oil obtained from the OCS shall pay to the Treasury of the United States a fee of \$0.3 per barrel on all oil produced on the OCS.

(b) The owner of oil obtained from the OCS shall, for the purpose of computing the barrel fee levied in paragraph (a) of this section, measure OCS oil production by employing the criteria of the U.S. Geological Survey contained in 30 CFR 250.60 and OCS Order 13.

NOTE.—Payment of the fee levied in paragraph (a) of this section is made in accord-

ance with the fee collection regulations issued by the Secretary of the Treasury.

## § 130.105 Adjustment of levy.

(a) The Commandant modifies or suspends by regulation the barrel fee levied in § 130.103(a) to maintain the statutory Fund level.

(b) The Commandant gives at least 90 days notice before any barrel fee modification or suspension becomes effective.

## Subpart C—Financial Responsibility for Offshore Facilities

## § 130.201 Applicability.

(a) This subpart applies to the owner or operator of each offshore facility required by the Act to establish and maintain evidence of financial responsibility.

(b) For the purpose of this subpart:

(1) A mobile offshore drilling unit is considered an offshore facility from the moment a drill shaft connected to the unit first touches the seabed for the purposes of exploration, development, or production of oil until drilling is complete and the unit is no longer attached to the seabed by any device which transfers oil to the unit.

(2) Two or more platforms or structures, when physically connected above the waterline, are considered to be a single offshore facility.

(3) All wells, including satellite wells, and the flow lines from all wells are considered to be part of the platform or structure to which they are connected.

(4) A pipeline used to transport oil between two offshore facilities, between an offshore facility and a pipeline, between an offshore facility and the shore, or between any point on the OCS and the shore, including any pumping or booster stations whether above or below water, is considered to be an offshore facility.

NOTE.—Regulations governing financial responsibility and certification for vessels are promulgated by the Federal Maritime Commission.

## § 130.203 Amount required.

(a) The owner or operator of an offshore facility that is used in drilling for, producing, or processing oil, or has the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels of oil at any one time, must establish and maintain evidence of financial responsibility in the amount of \$35,000,000.

(b) In any case where an owner or operator owns or operates more than one offshore facility and chooses to provide evidence of financial responsibility by guarantee, surety bond, or self-insurance, the amount must be established according to the following scale:

- (1) For one facility, \$35,000,000;
- (2) For two facilities, \$43,000,000;
- (3) For three facilities, \$47,000,000;
- (4) For four facilities, \$49,000,000;
- (5) For five or more facilities, \$50,000,000.

(c) In the case where an owner or operator owns or operates more than one offshore facility, the amount of insurance coverage for each facility must be \$35,000,000.

(d) The owner or operator who owns or operates more than one offshore facility shall obtain a Certificate of Financial Responsibility for each facility.

(e) If separate parts of an offshore facility are owned by separate owners or operators, only one owner or operator need establish financial responsibility if that owner or operator is acting as guarantor for all of the owners and operators of that facility.

(f) If an entire offshore facility is jointly owned or operated only one owner or operator need establish financial responsibility if that owner or operator will assure financial responsibility for all of the other owners or operators of that facility.

**§ 130.205 Methods of establishing evidence.**

(a) Evidence of financial responsibility may be established by any one, or any combination acceptable to the Fund Administrator, of the following methods:

- (1) Insurance;
- (2) Guarantee;
- (3) Surety bond; or
- (4) Qualification as self-insurer.

(b) The Fund Administrator accepts alternative evidence of financial responsibility if it establishes an equivalent degree of financial responsibility for the purposes of this subpart.

**§ 130.207 Insurance as evidence.**

(a) Insurance filed with the Fund Administrator as evidence of financial responsibility shall be issued by an insurer that is acceptable to the Fund Administrator

(b) An insurer must—

(1) Agree to be sued directly by any person for claims under the Act against the owner or operator; and

(2) Designate an agent in the United States for service of process.

(c) Insurance coverage as evidence of financial responsibility must be effective on the date of endorsement on the application for Certificate of Financial Responsibility and must remain in force until 30 days after date of receipt by the Fund Administrator of written notification that the insurer has elected to terminate the insurance coverage.

(d) Termination of insurance coverage shall not affect the liability of the insurer for an incident occurring

before the effective date of termination.

(e) Joint insurers shall be jointly and severably liable.

**§ 130.209 Guarantee as evidence.**

(a) A guarantor must—

(1) Agree to be sued directly by any person for claims under the Act against the owner or operator; and

(2) Designate an agent in the United States for service of process.

(b) Guarantees filed as evidence of financial responsibility must be supported by a copy of the guarantor's most recent balance sheet, income statement, and statement of changes in financial position, that are either consolidated or non-consolidated, certified by an independent Certified Public Accountant, and, when consolidated, endorsed by an independent Certified Public Accountant confirming that the guarantor's—

(1) Current assets held in the United States, not including pledged assets or stock not publicly traded, exceed current liabilities in an amount greater than the amount being guaranteed; and

(2) Equity exceeds the amount guaranteed.

(c) If the guarantor files a Securities and Exchange Commission Form 10-K report, a copy of the guarantor's most recent 10-K report must be filed with the Fund Administrator.

(d) Each guarantor must file annually with the Fund Administrator copies of the documents required under paragraph (b) of this section, within 90 days after the close of the guarantor's fiscal accounting period, and, under paragraph (c) of this section, within 30 days after the date of filing the 10-K reports with the Securities and Exchange Commission.

(e) A guarantee as evidence of financial responsibility must be effective on the date of endorsement on the application for Certificate of Financial Responsibility and must remain in effect until 30 days after date of receipt by the Fund Administrator or written notification that the guarantor has elected to terminate the guarantee.

(f) Termination of the guarantee shall not affect the liability of the guarantor for an incident occurring before the effective date of termination.

(g) Joint guarantors shall be jointly and severably liable.

**§ 130.211 Surety bond as evidence.**

(a) Each surety bond filed with the Fund Administrator as evidence of financial responsibility shall be issued by a bonding company that—

(1) Is authorized to do business in the United States;

(2) Is licensed to do business in the state or territory in which the bond is executed;

(3) Is certified by the Department of the Treasury with respect to the issuance of Federal bonds in the penal sum of the bond; and

(4) Designates an agent in the United States for service of process.

(b) The surety must agree to be sued directly by any person for claims under the Act against the owner or operator.

(c) A surety bond as evidence of financial responsibility must be effective on the date of the endorsement on the application for Certificate of Financial Responsibility and must remain in effect until 30 days after date of receipt by the Fund Administrator of written notification that the surety has elected to terminate the surety bond.

(d) Termination of the surety bond shall not affect the liability of the surety for an incident occurring before the effective date of termination.

**§ 130.213 Qualification as self-insurer.**

(a) Evidence of self-insurance filed with the Fund Administrator as proof of financial responsibility must be supported by either—

(1) A non-consolidated copy of the self-insurer's most recent balance sheet, income statement, and statement of changes in financial position, that are certified by an independent Certified Public Accountant and endorsed confirming that the self-insurer's current U.S. assets, not including pledged assets or stock not publicly traded, exceed current liabilities for the amount of the self-insurance, and that the self-insurer's equity exceeds the amount of the self-insurance; or

(2) A copy of the self-insurer's most recent balance sheet, income statement, and statement of changes in financial position which are certified by an independent Certified Public Accountant, and a statement prepared by that accountant which shows that, based on an analysis of the self-insurer's financial position, sufficient liquid assets cash flow, or a combination thereof have historically been available over the past five years to sufficiently retire a claim for the amount of self-insurance requested without placing the self-insurer in an insolvent position.

(b) If the self-insurer files a Securities and Exchange Commission Form 10-K report, a copy of the self-insurer's most recent 10-K report must be filed with the Fund Administrator.

(c) Each self-insurer must file annually with the Fund Administrator copies of the documents required under paragraph (a) of this section, within 90 days after the close of the self-insurer's fiscal accounting period,

and, under paragraph (b) of this section, within 30 days after the date of filing the 10-K reports with the Securities and Exchange Commission.

#### § 130.215 Certification.

(a) The owner or operator or owner and operator of an offshore facility shall—

(1) Apply for a Certificate of Financial Responsibility before March 17, 1979; or

(2) If the offshore facility is not in existence on March 17, 1979, apply for a Certificate of Financial Responsibility at least 45 days before placing the offshore facility into operation.

(b) Each application for a Certificate of Financial Responsibility must be made on Coast Guard Form CG-Application for Certificate of Financial Responsibility, available from the Fund Administrator or any Coast Guard District Office. This form must be submitted for each facility.

(c) Each Application form submitted under this section must be signed by the applicant owner or operator of the offshore facility or an authorized representative. A written statement proving authority to sign must also be submitted where the signer is not disclosed as an individual (sole proprietor) applicant, a partner in a partnership applicant, or a director of other officer of a corporate applicant.

(d) Financial data or other information contained in an application form submitted under this section that is proprietary in nature, or constitutes a trade secret, must be clearly designated as such to insure confidential treatment by the Fund Administrator.

(e) If any of the information submitted for certification is determined by the Fund Administrator to be insufficient the Fund Administrator may require additional information before final consideration of the application.

#### § 130.217 Display of certificate.

(a) Each owner or operator who has obtained a Certificate of Financial Responsibility for a manned offshore facility must post the Certificate of Financial Responsibility at the control station of the facility.

(b) Each owner or operator who has obtained a certificate of Financial Responsibility for an unmanned offshore facility must—

(1) Keep the certificate readily available for examination at the nearest office of the owner or operator; and

(2) Post a copy of the certificate at the facility where possible (unless submerged) in a weatherproof enclosure.

(c) Certificates, as issued, are to be considered property of the U.S. Government, are not to be altered in any manner, and must be surrendered on demand.

#### § 130.219 Notification of changes affecting certification.

(a) Each owner, operator, or guarantor of an offshore facility shall within five days notify the Fund Administrator in writing when any changes occur which significantly affect the financial capability of the owner, operator, or guarantor, to meet the obligations for which a Certificate of Financial Responsibility has been issued.

(b) Based on notice of a change in financial capability under paragraph (a) of this section, the Fund Administrator may revoke a Certificate of Financial Responsibility.

#### § 130.221 Reapplication for certification.

(a) Each owner or operator whose Certificate of Financial Responsibility becomes invalid for any reason, must immediately reapply to the Fund Administrator for a certificate.

#### § 130.223 Revocation of certificates.

(a) The Fund Administrator may revoke any certificate for—

(1) A false statement made in an application or reapplication for a certificate or to the Fund Administrator in connection with an existing certificate;

(2) Failure of the certificant to establish and maintain evidence of financial responsibility in accordance with the requirements of this subpart;

(3) Failure of the guarantor or certificant to comply with or respond to inquiries or orders of the Fund Administrator concerning financial responsibility; and

(4) Cancellation, termination, or modification of any insurance policy, surety bond, or guarantee, which reduces the financial capacity of the owner, operator, or guarantor to meet the requirements of this subpart.

(b) Before revoking a certificate the Fund Administrator advises the certificant, in writing, of the intention to revoke the certificate and the reason for this action.

(c) The revocation action will be effective within ten days of receipt of the notice of intent to revoke unless action under paragraph (d) of this section is initiated.

(d) A certificant informed under paragraph (b) of this section of a pending revocation action by the Fund Administrator may submit to the Fund Administrator, in writing within 10 days of receipt of the notice, reasons why the revocation should not be effected.

#### Subpart D—Notification, Designation and Advertisement

#### § 130.301 Purpose.

(a) This subpart prescribes the requirements concerning notification of pollution incidents, source designa-

tion, and advertisement of designations.

#### § 130.303 Definitions.

(a) As used in this subpart—

(1) "Advertisement" means the dissemination of information, including methods other than paid ads, that advises the public how to contact the designated source of pollution or the Fund to initiate a claim for economic loss.

(2) "Designated source" means a vessel or offshore facility which has been designated by the Commandant as the source of oil pollution.

(3) "Occurrences which pose an imminent threat of oil pollution" means those incidents that are likely to result in a discharge and include, but are not limited to: Vessel collisions, grounding or strandings; structural failures or weaknesses in tanks, pipelines or other oil handling systems; fires, explosions or other events which may cause structural damage to a vessel or offshore facility.

#### NOTIFICATION

#### § 130.305 Notification procedures.

(a) The person in charge of a vessel or offshore facility that is involved in an incident shall, as soon as that person has knowledge of the incident, immediately notify by telephone, radio telecommunication or a similar rapid means of communication, in the following order of preference—

(1) The Duty Officer, National Response Center, U.S. Coast Guard, 400 Seventh St., S.W., Washington, D.C. 20590, toll free telephone number 800-424-8802; or

(2) The commanding officer or supervisor of any Coast Guard Marine Safety Office, Captain of the Port Office, Marine Safety Detachment or Port Safety Detachment in the vicinity of the incident; or

(3) The commanding officer or officer in charge of any other Coast Guard unit in the vicinity of the incident; or

(4) The Commander of any Coast Guard District.

#### § 130.307 Notification contents.

(a) In each notification provided under § 130.305, the person in charge of the vessel or offshore facility involved in the incident shall provide his or her name and telephone number, or radio call sign, and, to the extent known, the—

(1) Location, date and time of the incident;

(2) Quantity of oil involved;

(3) Cause of the incident;

(4) Name or other identification of the vessel or offshore facility involved;

(5) Size and color of any slick or sheen and the direction of movement;

(6) Observed on scene weather conditions, including wind speed and direction, height and direction of seas, and any tidal or current influence present;

(7) Actions taken or contemplated to secure the source or contain and remove or otherwise control the discharged oil;

(8) Extent of any injuries or other damages incurred as a result of the incident;

(9) Observed damage to living natural resources; and

(10) Any other information deemed relevant by the reporting party or requested by the person receiving the notification.

(b) The person giving notification of an incident must not delay notification to gather the required information and must provide information not immediately available when that information becomes known.

#### DESIGNATION

##### § 130.309 Notice of Designation.

(a) Upon learning of an incident which involves oil pollution, the Commandant designates, where possible, the source of the oil pollution and notifies the owner, operator and any guarantor as listed on the Certificate of Financial Responsibility applicable to the source of that designation.

(b) Designation is made by a written Notice of Designation containing, to the extent known:

(1) The name of the vessel or offshore facility being designated as the source of oil pollution;

(2) The location, date, and time of the incident;

(3) The quantity of oil involved;

(4) The procedures for accepting or denying the designation;

(5) The initial requirements for advertising, if any, and

(6) The name, address and telephone number of the responsible Federal official to whom further communication regarding the incident, advertisement of the incident, or denial of designation should be directed.

##### § 130.311 Denial of designation.

(a) The owner or operator of a designated source may deny a designation within five days after receipt of a written Notice of Designation.

(b) A denial of designation must be in writing and—

(1) Identify the Notice of Designation; and

(2) Be submitted to the official named in the notice of Designation.

#### ADVERTISEMENT

##### § 130.313 Advertisement determinations.

(a) The Commandant determines the type, scope, and frequency of advertisements, if any, to be used for each oil pollution incident.

(b) In making the determination specified in paragraph (a) of this section, the Commandant considers—

(1) The nature and extent of economic losses that have occurred or are likely to occur;

(2) The persons who are likely to incur economic losses;

(3) The geographical area that is or is likely to be affected; and

(4) The most effective method of reasonably notifying potential claimants of the designation and procedures for submitting claims.

(c) The Commandant provides, in writing, the specific requirements for advertising for each pollution incident to the designated representatives of the owner, operator or guarantor.

##### § 130.315 Types of advertisement.

(a) Advertisement required by this subpart shall be made by one or more of the following means:

(1) Paid advertisement in a newspaper, or newspapers, having general circulation in the area designated by the Commandant;

(2) A public service announcement on commercial radio and television stations serving the area designated by the commandant, when such services are available;

(3) Notice posted in marinas, marine supply stores, bait and tackle shops and other appropriate business establishments or public facilities in the area designated by the Commandant;

(4) News release to all newspapers, radio and television stations serving the area designated by the Commandant; and

(5) Publication in the Notice to Mariners.

##### § 130.317 Frequency and geographical scope of advertisement.

(a) The frequency and geographical coverage of advertisement depends upon the circumstances of each incident and will be designated by the Commandant.

(b) The substance of the required advertisement will be published in at least four successive editions of the Local Notice to Mariners.

##### § 130.319 Content of advertisement.

(a) Each advertisement required by this subpart must specify the—

(1) Location, date and time of the incident;

(2) Geographical area affected, as determined by the Commandant;

(3) Quantity of oil involved;

(4) Name or other description of the source designated by the Commandant;

(5) Identity of the owner, operator or guarantor of the source; and

(6) Name, address, telephone number, office hours and work days of the person or persons to whom claims

are to be presented and from whom claim information can be obtained.

#### Subpart E—Access, Denial, and Detention

##### § 130.401 Access to facility and vessel Certificates of Financial Responsibility.

(a) The owner, operator, master or agent of any facility or vessel subject to the Act must, upon request by any Coast Guard officer or petty officer, provide access to the facility or vessel and produce for examination the Certificate of Financial Responsibility.

##### § 130.403 Sanctions for failure to produce vessel Certificates of Financial Responsibility.

(a) The Captain of the Port issues denial or detention orders to the owner, operator, agent, or master of any vessel that cannot show upon request a valid Certificate of Financial Responsibility issued under the Act.

(b) A denial order forbids entry of any vessel subject to the Act to any port or place in the United States or to the navigable waters of the United States.

(c) A detention order detains any vessel subject to the Act at the port or place in the United States from which it is about to depart or any other port or place in the United States.

(d) The Captain of the Port terminates a denial or detention order when the owner, operator, agent, or master or a vessel furnishes adequate evidence that the certification of financial responsibility requirements under the Act have been met.

##### § 130.405 Appeal provisions.

(a) The owner, operator, agent or master of a vessel issued a denial or detention order under this subpart may petition the nearest District Commander in any manner to review that order.

(b) Upon completion or review, the District Commander affirms, sets aside, or modifies the order.

(c) Unless otherwise determined by the District Commander a denial or detention order remains in effect pending the outcome of any petition or appeal of that order.

(d) The District Commander acts on all petitions or appeals within 10 days of receipt.

(e) The decision of the District Commander is final agency action.

(Pub. L. 95-372; 49 CFR 1.46)

#### PART 131—OFFSHORE OIL POLLUTION COMPENSATION FUND CLAIMS PROCEDURES

##### Subpart A—Introduction

Sec.	
131.1	Purpose.
131.3	Information.
131.5	Definitions.
131.7	Foreign Claims.

## Subpart B—General

## TIMELINESS

131.101 Time limitation on claims.

## PRESENTMENT

131.103 Federally authorized removal costs.

131.105 Other claims.

131.107 Presenting claims to the Fund.

131.109 Referral of unsettled claims.

131.111 Form.

## CONTENT

131.115 Proof.

131.117 Evidence.

131.119 Multiple items of damage.

131.121 Insurance.

131.123 Other compensation.

131.125 Subrogation.

131.127 Costs incident to claim preparation.

## SETTLEMENT AND NOTICE TO CLAIMANT

131.129 Payment.

131.131 Denial of claim.

## Subpart C—Procedures for Particular Losses

## INJURY TO, DESTRUCTION OF OR LOSS OF USE OF PROPERTY

131.201 Authorized claimants.

131.203 Proof.

131.205 Compensation allowed.

## LOSS OF INCOME DUE TO INJURY TO, OR DESTRUCTION OF, PROPERTY OR NATURAL RESOURCES

131.207 Authorized claimants.

131.209 Proof.

131.211 Compensation Allowed.

## INJURY TO, OR DESTRUCTION OF, NATURAL RESOURCES

131.213 Authorized claimants.

131.215 Proof.

131.217 Compensation allowed.

## LOSS OF USE OF NATURAL RESOURCES

131.219 Authorized claimants.

131.221 Proof.

131.223 Compensation allowed.

## CLEANUP COSTS

131.225 Authorized claimants.

131.227 Proof.

131.229 Compensation allowed.

## LOSS OF TAX REVENUE DUE TO INJURY TO PROPERTY

131.231 Authorized claimants.

131.233 Proof.

131.235 Compensation allowed.

## Subpart D—Administrative Review of Claims

131.301 General.

131.303 Initiation of administrative review.

131.305 Procedure.

131.307 Subpenas.

131.309 Review of Administrative determination.

131.311 Judicial review

AUTHORITY: Pub. L. 95-372; 49 CFR 1.46.

## Subpart A—Introduction

## § 131.1 Purpose.

(a) This part prescribes uniform procedures and standards for the settle-

ment of claims against the Offshore Oil Pollution Compensation Fund (Fund) as authorized by Title III of the Outer Continental Shelf Lands Act Amendment of 1978 (Pub. L. 95-372; 43 U.S.C. 1811-1824) (the Act) for economic loss resulting from, or arising out of, oil pollution from Outer Continental Shelf activities, including removal costs.

## § 131.3 Information.

(a) Any person who desires to file a claim against the Fund may obtain information from the Administrator, Offshore Oil Pollution Compensation Fund, U.S. Coast Guard Headquarters (G-W/78), 400 Seventh Street SW., Washington, D.C. 20590.

## § 131.5 Definitions.

(a) As used in this part, the following terms shall have the same meaning as defined in section 301 of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372): "claims"; "foreign claimant"; "Fund"; "guarantor"; "incident"; "oil"; "oil pollution"; "operator"; "owner"; "person"; "property"; "removal costs"; "State"; "United States"; and "United States claimant".

(b) As used in this part—

(1) "Act means Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372, 43 U.S.C. 1811-1824), entitled "Offshore Oil Spill Pollution Fund".

(2) "Administrative Law Judge" means any person designated by the Commandant pursuant to the Administrative Procedure Act (5 U.S.C. 551-559) to hear and resolve disputed claims in accordance with section 307 [i] of the Act.

(3) "Commandant" means the Commandant of the Coast Guard or that person's authorized representative.

(4) "Fund Administrator" means the person to whom the authority and functions of the Commandant as administrator of the Fund are delegated.

(5) "Fund Claims Adjuster" means a person authorized to receive, review, adjust, and pay claims on behalf of the Fund.

(6) "Natural resources" means land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by held in trust by, appertaining to or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any state or local government, or any foreign government.

(7) "Outer Continental Shelf" means "Outer Continental Shelf" as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(8) "Panel" means a three member panel appointed by the Secretary of Transportation in accordance with section 307 (h) of the Act.

## § 131.7 Foreign claims.

(a) Claims may be presented by foreign claimants for economic loss, except for loss of tax revenues, to the same extent that compensation for economic loss may be claimed by any United States claimant when the conditions of section 303(b)(6) of the Act are met.

(b) Foreign claims must be submitted in accordance with the regulations of this part and any additional instructions of the Fund Administrator.

(c) Before any foreign claim may be paid, the Fund Administrator certifies that the foreign claim is appropriate for consideration by the Fund.

## Subpart B—General

## TIMELINESS

## § 131.101 Time limitation on claims.

(a) A claim may not be considered by the Fund unless presented, in writing, to the Fund within three years of discovery of the economic loss for which compensation is sought or within six years of the date of the incident which resulted in the loss, whichever is earlier.

(b) For purposes of this section, a claim may be presented to the Fund even though the claim has been presented to and is under consideration by the owner, operator, or guarantor of a designated source, or other person.

(c) A claim is presented on the date the claim is actually received by the Fund Claims Adjuster or Fund Administrator.

## PRESENTMENT

## § 131.103 Federally authorized removal costs.

(a) Claims for federally authorized removal costs that are recoverable under the Act must be presented to the fund established by section 311(k) of the Federal Water Pollution Control Act (33 U.S.C. 1251) in accordance with the regulations of Subpart D of 33 CFR Part 153.

## § 131.105 Other claims.

(a) If the source of pollution is known, claims must be presented to the owner, operator, or guarantor of the source, except where the Fund Administrator has advertised or otherwise notified claimants and potential claimants that the claims may be presented to the Fund.

(b) A claim presented to the owner, operator, or guarantor of the source of pollution which is denied for any reason or not settled within sixty days may be presented to the Fund.

(c) A claim may be presented to the Fund when the source of pollution is not known.

#### § 131.107 Presenting claims to the Fund.

(a) A claimant must present a claim to the Fund by making the claim personally at, or by delivering or mailing the claim directly to, an office of the Fund Claims Adjuster.

#### § 131.109 Referral of unsettled claims.

(a) A claimant may present any claim not satisfied under § 131.105(b) by requesting the owner, operator, or guarantor to whom the claim has been presented to refer the claim to the Fund.

(b) The owner, operator, or guarantor shall, within five days of receiving a request under paragraph (a) of this section, forward the entire claim file, except for material pertaining to settlement offers, directly to an office of the Fund Claims Adjuster.

#### § 131.111 Form

(a) A claim must be in writing and include the specific amount claimed.

(b) Whenever practicable, a claimant should submit a claim in the format specified and on the forms provided by the Fund Claims Adjuster.

(c) Each claim must be signed in ink by the Claimant or an authorized agent or legal representative of the claimant.

(d) A claim presented by an agent or legal representative must be presented in the name of the claimant, showing the title or legal capacity of the agent or representative.

### CONTENT

#### § 131.115 Proof.

(a) A claimant must establish—

- (1) The nature and extent of economic loss incurred; and
- (2) That the cause of the loss was "oil pollution" under the Act.

#### § 131.117 Evidence.

(a) A claimant must submit evidence in support of each claim.

(b) A sworn statement of the claimant may be accepted when other evidence is not available.

#### § 131.119 Multiple items of damage.

(a) A claimant must include all known losses arising out of a single incident or from the same oil pollution when submitting a claim.

(b) Each separate type of loss (as described in Subpart C of this part) must be separately listed.

(c) In the discretion of the Fund Administrator each separate type of loss may be treated separately for settlement purposes.

#### § 131.121 Insurance.

(a) A claimant must provide the following information concerning any insurance which may cover the loss for which compensation is claimed.

(1) The names and addresses of insurers;

(2) The kind and amount of coverage;

(3) The policy number;

(4) Whether a claim has been or will be presented to an insurer, and if so, the amount of the claim and the name of the insurer; and

(5) Whether any insurer has paid the claim in full or in part, or has indicated whether or not payment will be made.

#### § 131.123 Other compensation.

(a) A claimant must include with each claim an accounting, including source and value, of all other compensation received as a consequence of the incident out of which the claim arises including, but not limited to, monetary payments, goods or services, or other benefits.

#### § 131.125 Subrogation.

(a) The claims of a subrogor (insured) and subrogee (insurer) for damages arising out of the same incident constitute a single claim.

(b) A subrogor and subrogee may file a claim jointly or individually. If a joint claim is made, it must be signed by all parties in interest.

(c) A fully subrogated claim is payable only to the subrogee.

(d) A subrogee must support a claim in the same manner as any other claimant.

#### § 131.127 Costs incident to claim preparation.

(a) Costs incurred in the preparation of a claim may be included in the claim.

(b) Compensation may be allowed for reasonable costs of claim preparation.

### SETTLEMENT AND NOTICE TO CLAIMANT

#### § 131.129 Payment.

(a) Payment is made as soon as possible when a claim is approved in full or an offer of settlement is accepted. Amounts in settlement greater than \$100,000 require Fund Administrator approval before payment.

(b) Whenever a claim is not approved in full, the claimant is notified in writing of the settlement offer. Acceptance of the settlement offer must be in writing.

(c) The acceptance of an offer in settlement is final and conclusive for all purposes and, upon payment, constitutes a release of the Fund for the claim.

(d) Failure to accept an offer of settlement within thirty days constitutes rejection of the offer.

#### § 131.131 Denial of claim.

(a) A claimant will be notified in writing whenever a claim against the Fund is denied, including when denial results from rejection, by the claimant, of an offer of settlement.

(b) The notification of paragraph (a) of this section includes a statement of the claimants right to further review of the claim.

(c) A claimant may consider a claim not settled within sixty days as being denied for purposes of administrative review.

### Subpart C—Procedures for Particular Losses

#### INJURY TO, DESTRUCTION OF OR LOSS OF USE OF PROPERTY

#### § 131.201 Authorized claimants.

(a) A claim for injury to or destruction of real or personal property, which may include loss of use of the property, or a claim for loss of use of real or personal property which is not damaged, may be presented by any person either owning or leasing the property.

#### § 131.203 Proof.

(a) A claimant must establish an ownership or leasehold interest in the property.

(b) For each claim for injury to, or destruction of, property the claimant must establish—

(1) That the property was injured or destroyed;

(2) The cost of repair or replacement; and

(3) The value of the property both before and after injury occurred, if the cost of repairs exceeds replacement cost.

(c) For each claim for loss of use of property, the claimant must establish—

(1) That the property was not available for use;

(2) Whether or not substitute property was available and utilized, and the costs thereof; and

(3) The economic loss incurred as a result of the loss of use of the property.

#### § 131.205 Compensation allowed.

(a) The measure of damages for injured property is the actual or estimated net cost of repairs necessary to restore the property to substantially the condition which existed immediately before injury.

(b) If the actual or estimated net cost of repairs exceeds the value of the property immediately before injury less the value immediately after injury, the measure of damages is the value of the property immediately

before injury less the value immediately after injury.

(c) Compensation for loss of use of property may be allowed for reasonable costs, actually incurred, for use of substitute property or, if substitute property was not reasonably available, for the amount of the net economic loss which resulted from not having use of the property. When substitute property was reasonably available, but not used, compensation for loss of use is not payable.

#### LOSS OF INCOME DUE TO INJURY TO, OR DESTRUCTION OF, PROPERTY OR NATURAL RESOURCES

##### § 131.207 Authorized claimants.

(a) A claim for loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources may be presented by any person deriving at least 25 percent of his or her annual income from activities which utilize the property or natural resource.

(b) A person who either owns or leases property which is injured or destroyed is not a proper claimant under paragraph (a) of this section. That person should claim under § 131.201.

(c) A person who uses natural resources directly is not a proper claimant under paragraph (a) of this section. That person should claim under § 131.219.

##### § 131.209 Proof.

(a) The claimant must establish—

(1) that 25 per cent of the claimant's income, on an annual basis, is derived from activities which utilize the injured or destroyed property or natural resources;

(2) that the claimant's income from these activities was reduced as a consequence of injury or destruction of the property or natural resources; and

(3) Whether or not substitute employment, or business, was available and undertaken and, if so, the amount of income received.

##### § 131.211 Compensation allowed.

(a) Compensation is limited to the earnings or profits lost but is not allowed when appropriate substitute employment or business was available but not undertaken.

(b) If substitute employment or business was undertaken, any resulting reduction in earnings or profits may be allowed.

(c) Compensation is ordinarily limited to loss of earnings or profits resulting from the interruption or discontinuance of employment or business rather than to prospective earnings or profits.

#### INJURY TO, OR DESTRUCTION OF, NATURAL RESOURCES

##### § 131.213 Authorized claimants.

(a) A claim for injury to, or destruction of, natural resources may be presented by—

(1) A Federal agency designated by the President, as trustee, for those natural resources over which the United States has sovereign rights or exercises exclusive management authority; or

(2) Any State, for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State.

##### § 131.215 Proof.

(a) A claimant must establish—

(1) The identification and quantity of the natural resource for which compensation is claimed;

(2) The nature and extent of the injury to the natural resource;

(3) The cost to restore or replace the natural resource; and

(4) Any economic loss relating to the natural resource which would not be recovered by replacement or restoration.

##### § 131.217 Compensation allowed.

(a) The amount of compensation is based on—

(1) The cost to restore, rehabilitate, or acquire the equivalent of the natural resource; or

(2) A unit value when replacement or restoration is either impossible or impracticable.

#### LOSS OF USE OF NATURAL RESOURCES

##### § 131.219 Authorized claimants.

(a) A claim for loss of use of natural resources may be presented by any person who incurs economic loss as a result of not being able to directly use any natural resource.

##### § 131.221 Proof.

(a) A claimant must establish—

(1) The identification of the natural resource for which compensation for loss of use is claimed;

(2) The activity which the loss of use of the natural resource prevented or affected;

(3) An explanation of how the use of the natural resource was affected;

(4) Alternatives to the activity and whether or not utilized, and if so, how, and with what result; and

(5) The economic loss suffered.

##### § 131.223 Compensation allowed.

(a) The amount of compensation allowed is the net economic loss incurred.

#### CLEANUP COSTS

##### § 131.225 Authorized claimants.

(a) A claim for cleanup costs may be presented by any person.

##### § 131.227 Proof.

(a) A claimant must establish—

(1) The actions taken to prevent, minimize, or mitigate oil pollution;

(2) The costs incurred and other economic loss incurred as a result of these actions; and

(3) Why the actions were taken.

##### § 131.229 Compensation allowed.

(a) The amount of compensation allowed is the total of reasonable economic loss incurred.

(b) Except for action taken with respect to property owned, leased, or otherwise subject to the supervision, management, or use of the claimant, voluntary actions will not ordinarily be compensated.

#### LOSS OF TAX REVENUE DUE TO INJURY TO PROPERTY

##### § 131.231 Authorized claimants.

(a) A claim for loss of tax revenue may be presented on behalf of the United States, or any State or political subdivision thereof with authority to assess and collect taxes, by the official charged with the responsibility and authority for collecting these taxes.

##### § 131.331 Proof.

(a) A claimant must establish—

(1) The identification and description of the tax for which compensation is claimed, including authority and regulations, property affected, method of assessment, rate, and method and dates of collection;

(2) That a consequence of the oil pollution was a reduction in tax revenue;

(3) The total tax assessment or tax revenue collected for the tax period before injury occurred; and

(4) The net loss of revenue.

##### § 131.235 Compensation allowed.

(a) The amount of compensation allowed is the total tax revenue actually lost during the one year period following the oil pollution incident.

#### Subpart D—Administrative Review of Claims

##### § 131.301 General.

(a) Administrative review of the denial of a claim is either by panel or administrative law judge in accordance with the Administrative Procedure Act (5 U.S.C. 554), section 307 of the Act, and these regulations.

§ 131.303 Initiation of administrative review.

(a) A claimant must initiate review of a claim by written notice, within 30 days to the denial of a claim, to the Fund Administrator, for forwarding to the Commandant.

(b) Upon receipt of a request for review of a claim the Commandant refers the claim to an administrative law judge or recommends to the Secretary of Transportation that the claim be referred to a panel. If the Secretary does not refer the claim to a panel, the claim is returned to the Commandant for referral to an administrative law judge. The Commandant notifies the claimant of the action taken.

(c) The Fund Administrator may reconsider any claim at any time before administrative review begins.

§ 131.305 Procedure.

(a) The administrative law judge, or presiding officer of a panel, is responsible for all proceedings for review of a claim and, may—

(1) Administer oaths and affirmations;

(2) Issue subpoenas;

(3) Adopt procedures for the submission of evidence;

(4) Rule on offers of proof and receive evidence;

(5) Dispose of procedural requests and similar matters;

(6) Convene, recess, reconvene, adjourn, and otherwise regulate the hearing;

(b) An informal, preliminary conference is held, in advance of the hearing, presided over by the administrative law judge, or presiding officer, to narrow the issues and otherwise discuss the specific matters in dispute.

(c) A verbatim record is made of the proceedings. A transcript is not prepared unless either an appeal is taken or the administrative law judge, or presiding officer, specifically so orders.

(d) The administrative law judge, or panel, promptly renders a decision at the close of the proceedings.

(e) The decision of the administrative law judge, or panel, constitutes final agency action, unless, within 30 days, review under § 131.309 has been directed.

§ 131.307 Subpoenas.

(a) The administrative law judge, or presiding officer, may issue subpoenas for the attendance and the giving of testimony by witnesses or for the production of any relevant evidence either upon motion by the administrative law judge, or presiding officer, or upon request of either the claimant or Fund.

(b) Each subpoena bears the name "Offshore Oil Pollution Compensation Fund" and the name and address of the issuing administrative law judge or presiding officer and commands the person to whom it is directed to testify at a specified time and place or to produce at a specified time and place books, papers, documents, or any other evidence described in the subpoena with the particularity necessary to identify what is desired.

(c) Service of a subpoena shall be by personal service, or by certified mail with return receipt to be signed by the addressee only. Proof of service, or an explanation of the lack of service, shall consist of appropriate endorsement upon a copy of the subpoena, and shall be delivered to the administrative law judge, or presiding officer.

(d) The person to whom a subpoena is directed may apply to the administrative law judge, or presiding officer, in writing, to request that the subpoena be quashed or modified. The administrative law judge, or presiding officer, promptly considers and rules on the request. The request must be made at least five days before appearance is required or documents must be produced.

(e) Subpoenaed witnesses are entitled to the same fees and mileage allowance as witnesses subpoenaed by District Courts of the United States.

These witness expenses are reimbursable by the Fund, to be paid by the Fund Administrator, if and when certified by the administrative law judge, or presiding officer, as costs necessary to settle claims against the Fund.

(f) If the administrative law judge, or presiding officer, rules that good cause has been shown for seeking judicial enforcement of a subpoena, the ruling is referred to the Commandant for action.

§ 131.309 Review of administrative determination.

(a) Either the claimant or the Fund may petition the Secretary of Transportation, in the case of administrative review by panel, or the Commandant, in the case of administrative review by administrative law judge, for further review. Review is granted at the discretion of the Secretary or Commandant, as appropriate.

(b) A petition under paragraph (a) of this section must—

(1) Be in writing;

(2) Be made within 15 days of the decision of the administrative body; and

(3) Specify the issues in dispute and the basis for the appeal.

(c) Either the Secretary of Transportation, for a claim reviewed by a panel, or the Commandant, for a claim reviewed by an administrative law judge, may, on their own initiative, review the decision of the administrative body.

§ 131.311 Judicial review.

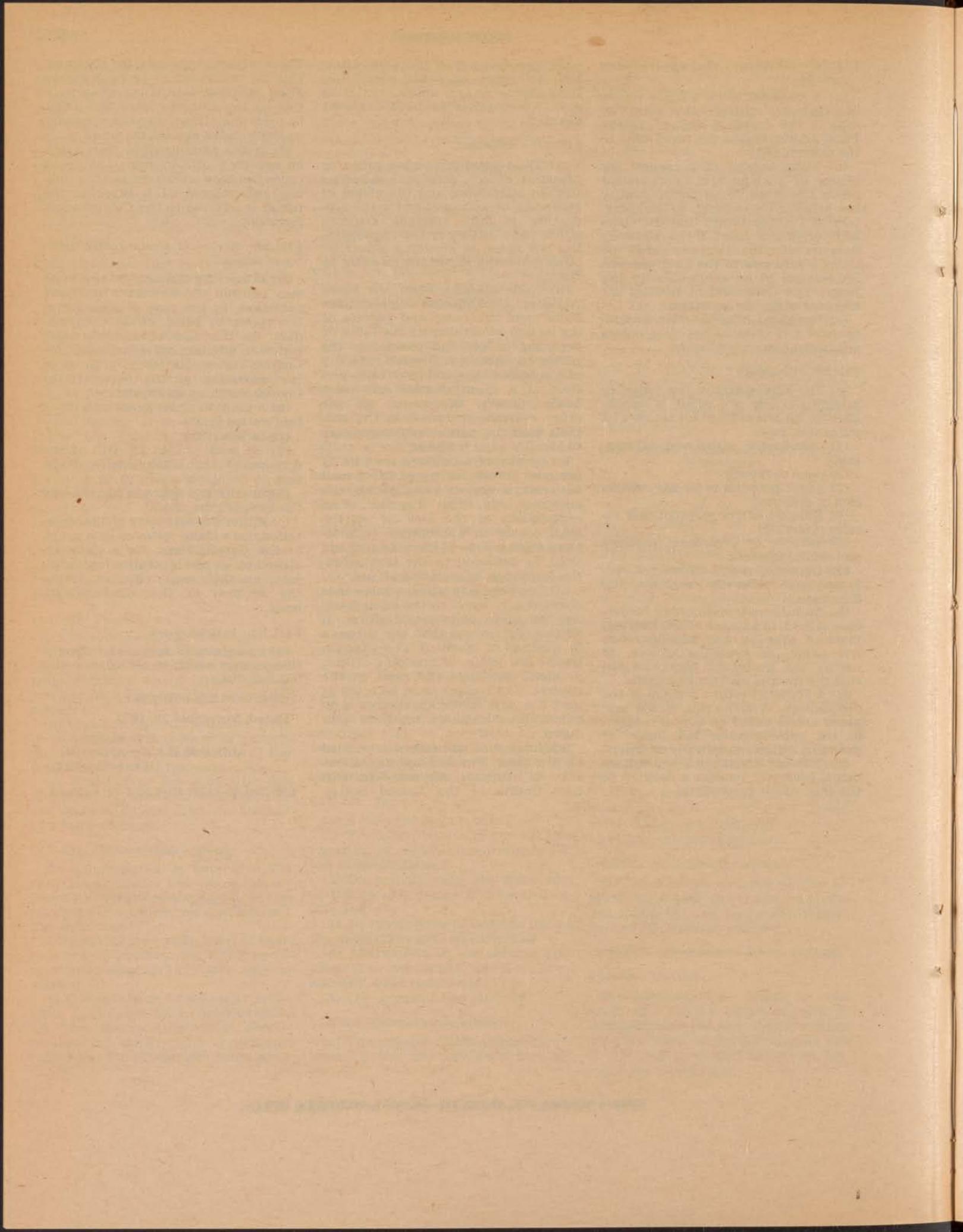
(a) The claimant may seek review of final agency action in accordance with 5 U.S.C. 702.

(Pub. L. 95-372; 49 CFR 1.46.)

Dated: November 29, 1978.

J. B. HAYES,  
Admiral, U.S. Coast Guard  
Commandant.

[FR Doc. 78-13797 Filed 12-1-78; 8:45 am]



4  
2  
3  
7

Federal Register

MONDAY, DECEMBER 4, 1978

PART V



---

DEPARTMENT OF  
TRANSPORTATION

Coast Guard

■

BOATS AND  
ASSOCIATED EQUIPMENT

Flotation Materials

[4910-14-M]

**Title 33—Navigation and Navigable Waters**

**CHAPTER I—COAST GUARD,  
DEPARTMENT OF TRANSPORTATION**

[CGD 77-145]

**PART 183—BOATS AND ASSOCIATED EQUIPMENT**

**Flotation Materials**

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

**SUMMARY:** This amendment to the Coast Guard flotation standard for monohull boats under 20 feet in length establishes performance specifications for flotation materials. Present standards do not specify how performance characteristics can be determined. This amendment will enable a manufacturer of a boat to determine if the flotation material used in the boat is able to meet minimum safety standards.

**EFFECTIVE DATE:** This regulation is effective on August 1, 1979, however, manufacturers may voluntarily comply with the regulations at the time of this publication.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Room 4314, Department of Transportation, Trans Point Building, Washington, D.C. 20590, 202-426-4027.

**SUPPLEMENTARY INFORMATION:** The Notice of Proposed Rulemaking was published in the FEDERAL REGISTER by the Coast Guard on March 6, 1978. Interested persons were invited to participate in the proposed rulemaking by submitting relevant comments.

**DRAFTING INFORMATION:** The principal persons involved in drafting this amendment are: Mr. Lars E. Granholm, Project Manager, Office of Boating Safety and LT Robert R. Meeks, Project Attorney, Office of Boating Safety.

**DISCUSSION OF COMMENTS:** Two comments were received in response to the invitation. Both commenters offered arguments which were carefully considered. The amendment is modified in view of these comments.

One commenter suggested that the word "volume" in paragraph 183.114 should be replaced by the words "buoyant force", because the performance requirement is related more to loss of buoyancy, i.e., the property of being able to support a swamped boat, than the volume of the flotation mate-

rial. The commenter further suggested that a test method be specified whereby the buoyancy can be measured. These comments are accepted. The Coast Guard agrees that the words "buoyant force" describe the intended purpose of the test better than the word "volume". A test for determining the buoyancy is added in paragraph 118.114(h). Although different methods for testing buoyant forces can be used, the Coast Guard believes that a standard method should be included in the rule.

The same commenter also pointed out that in paragraph 183.110, the definition of "connected" should include the same test specification as used in the definition of "sealed compartment". That specification establishes what the pressure head of water should be for determining a leakage rate. This comment is accepted and the specification is added to the definition of "connected" to make it consistent with the definition of "sealed compartment".

The commenter further pointed out that the temperature specifications should include either the word "maximum" or "minimum". This comment is accepted. Flotation foams deteriorate more with higher temperature, therefore, the temperature specified is a minimum temperature; the word "minimum" is for this reason added to paragraph 183.114(a).

The other commenter pointed out that the temperature specification in paragraphs 118.114(b) through 118.114(g) is somewhat higher than ambient temperatures in testing laboratories and would require specially heated areas for conducting tests. He pointed out that by lowering the specified temperature by 6° C, testing laboratories could perform the tests without specially heated areas. The temperature, suggested by the commenter, is the standard laboratory temperature listed in ASTM D-471 as 23 plus or minus 2° C. The comment pointed out that the solubility of any material is relative to temperature, and this proposed lowering of the test temperature will enhance the chemical resistance of the plastic foam. However, the commenter does not believe that lowering the temperature to the suggested level will endanger the primary objective of differentiating between oil resistant and standard grades of foams. The Coast Guard accepts this argument and a temperature of 23 plus or minus 2° C is specified for the tests.

Paragraphs 183.222(a) and 183.322(a) are revised. The words "engine room bilge" and "engine room" are removed. The reason is that these paragraphs address only outboard boat requirements, and outboard boats have no engine rooms.

This amendment has been reviewed under DOT Notice 78-1, Improving Government Regulations (43 FR 9582). A final evaluation has been prepared and is available for inspection at the Marine Safety Council.

In consideration of the foregoing, Part 183 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By revising § 183.110 to read as follows:

**§ 183.110 Definitions.**

For the purpose of this subpart—  
"ASTM" means American Society for Testing and Materials. The Coast Guard incorporates by reference ASTM Standard D-471, dated March 28, 1975, in § 183.114 of this subpart. This incorporation by reference was approved by the Director of the Office of the Federal Register on December 6, 1977. The Coast Guard also incorporates by reference ASTM Standard D-2842, dated November 14, 1969 (reapproved 1975), in § 183.114 of this subpart. This incorporation by reference was approved by the Director of the Office of the Federal Register on September 11, 1978. The incorporated standards are available for inspection at Coast Guard Headquarters, Room 4313, Trans Point Building, 2100 2nd St., SW., Washington, D.C. 20590 and at the Office of the Federal Register library, Room 8401, 1100 L St., NW., Washington, D.C. 20408. The incorporated standards may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

"Bilge" means the area in the boat, below a height of 4 inches measured from the lowest point in the boat where liquid can collect when the boat is in its static floating position, except engine rooms.

"Connected" means allowing a flow of water in excess of one-quarter ounce per hour from the engine room bilge into any other compartment with a 12-inch head of water on the engine room side of the bulkhead.

"Engine room bilge" means the area in the engine room or a connected compartment below a height of 12 inches measured from the lowest point where liquid can collect in these compartments when the boat is in its static floating position.

"Engine room" means the compartment where a permanently installed gasoline or diesel engine is installed, including connected compartments.

"Open to atmosphere" means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

"Sealed compartment" means an enclosure that can resist an exterior water level of 12 inches without sep-

page of more than one-quarter fluid ounce per hour.

2. By adding a new § 183.112 to read as follows:

§ 183.112 Flotation material and air chambers.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the: (1) Engine room bilge, (2) engine room, or (3) bilge, unless located in a sealed compartment.

(b) Air chambers used to meet the flotation requirements of this subpart must not be integral with the hull.

3. By adding a new § 183.114 to read as follows:

§ 183.114 Test of flotation materials.

(a) *Vapor test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed in a fully saturated gasoline vapor atmosphere for 30 days at a minimum temperature of 38° C.

(b) *24-hour gasoline test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 24 hours at 23 plus or minus 2° C in reference fuel B, of ASTM D-471, dated March 28, 1975.

(c) *30-day gasoline test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 30 days at 23 plus or minus 2° C in reference fuel B, of ASTM D-471, dated March 28, 1975.

(d) *24-hour oil test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 24 hours at 23 plus or minus 2° C in reference oil No. 2, of ASTM D-471, dated March 28, 1975.

(e) *30-day oil test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 30 days at 23 plus or minus 2° C in reference oil No. 2, of ASTM D-471, dated March 28, 1975.

(f) *24-hour bilge cleaner test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 24 hours at 23 plus or minus 2° C in a 5-percent solution of trisodium phosphate in water.

(g) *30-day bilge cleaner test.* The flotation material must not reduce in

buoyant force more than 5 percent after being immersed for 30 days at 23 plus or minus 2° C in a 5-percent solution of trisodium phosphate in water.

(h) The buoyant force reduction in (a)-(g) is measured in accordance with ASTM D-2842, dated November 14, 1969 (reapproved 1975).

4. By revising § 183.222 to read as follows:

§ 183.222 Flotation material and air chambers.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the bilge,

unless located in a sealed compartment.

(b) Air chambers used to meet the flotation requirements of this subpart must not be integral with the hull.

5. By revising § 183.322 to read as follows:

§ 183.322 Flotation materials.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the bilge, unless located in a sealed compartment.

6. By adding a new table 5 to follow § 183.335 to read as follows:

TABLE 5 - FLOTATION PERFORMANCE TESTS

Area 183.110 Test 183.114		(b)	(c)	(d)
		Engineroom Bilge	Engineroom Unless Open to Atmosphere	Bilge
(a)	Vapor Test		X	
(b)	24 Hour Gasoline Test			X
(c)	30 Day Gasoline Test	X		
(d)	24 Hour Oil Test			X
(e)	30 Day Oil Test	X		
(f)	24 Hour Bilge Cleaner Test			X
(g)	30 Day Bilge Cleaner Test	X		

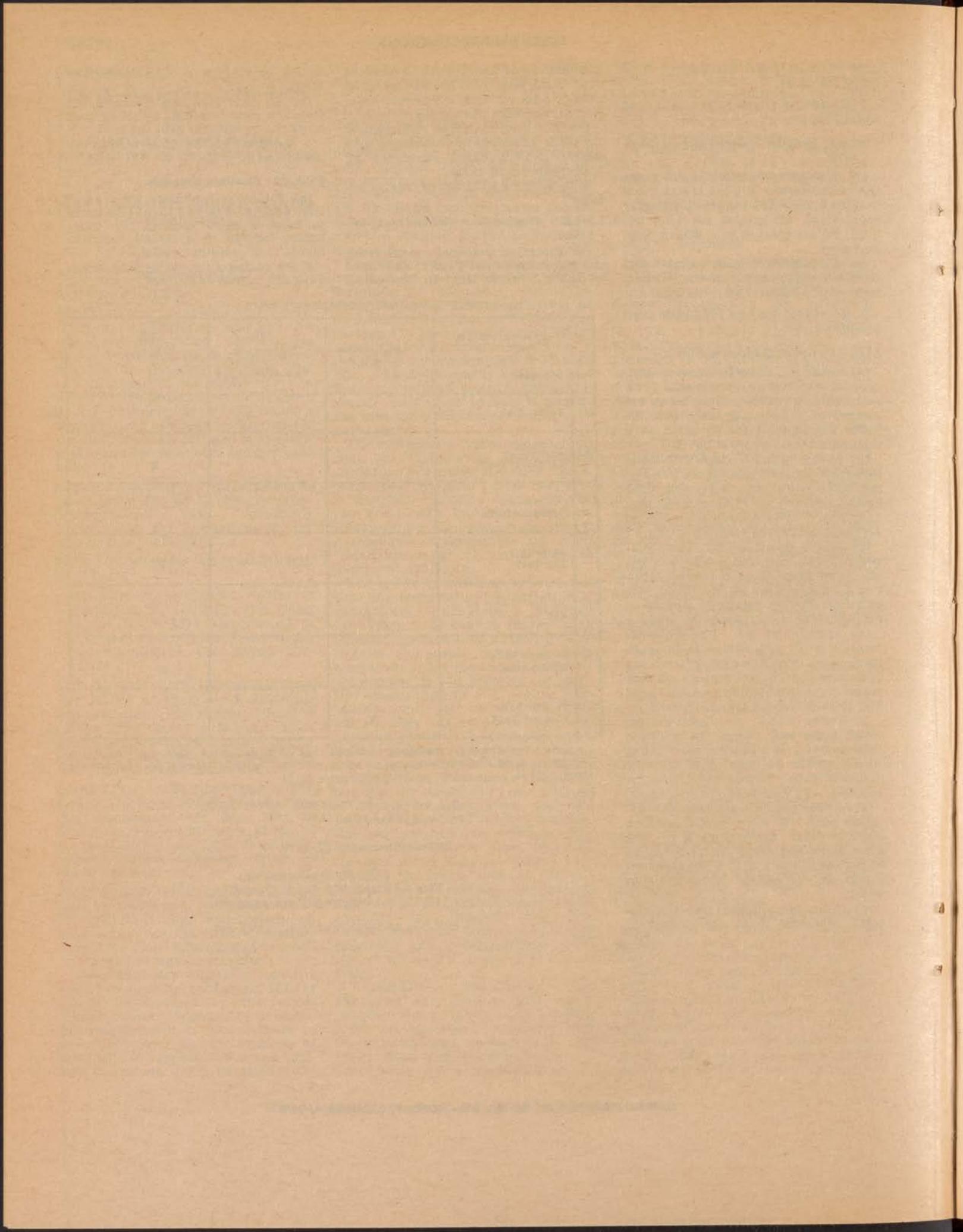
NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

(Sec. 5, Pub. L. 92-75, 85 Stat. 215 (46 U.S.C. 1454); 49 CFR 1.46(n)(1).)

Dated: November 27, 1978.

R. H. SCARBOROUGH,  
Vice Admiral, U.S. Coast Guard,  
Acting Commandant.

[FR Doc. 78-33790 Filed 12-1-78; 8:45 am]



**Register  
Federal Order**

**MONDAY, DECEMBER 4, 1978**

**PART VI**



---

**FEDERAL TRADE  
COMMISSION**

■

**RULES OF PRACTICE FOR  
ADJUDICATIVE  
PROCEEDINGS AND  
MOTIONS TO QUASH  
COMPULSORY PROCESS**

**Final Rules**

[6750-01-M]

## Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE  
COMMISSIONSUBCHAPTER A—ORGANIZATION,  
PROCEDURES AND RULES OF PRACTICEPART 3—RULES OF PRACTICE FOR  
ADJUDICATIVE PROCEEDINGS

## Discovery Rules; Revision

AGENCY: Federal Trade Commission.

ACTION: Final rules.

**SUMMARY:** These rules are a revision of the Commission's discovery rules. They are intended to make the procedures for discovery clearer, to provide the parties with more discovery devices, and to strengthen the authority of the Administrative Law Judge to supervise the proceedings effectively. They are more flexible than the previous rules, and are better suited to the needs of complex cases.

**EFFECTIVE DATE:** January 18, 1979. These amendments to the rules shall govern all discovery in Commission adjudicative proceedings that are initiated after they take effect and also all further discovery in proceedings that are then pending except to the extent that in the opinion of the Administrative Law Judge or the Commission their application in a particular proceeding pending when the amendments take effect would not be feasible or would work injustice, in which event the former rule or rules apply.

FOR FURTHER INFORMATION  
CONTACT:

Jack Schwartz, Assistant to the General Counsel, Federal Trade Commission, Washington, D.C., 20580 (202-523-3615).

**SUPPLEMENTARY INFORMATION:** The Federal Trade Commission previously published for comment a proposed general revision of its discovery rules based on the Federal Rules of Civil Procedure (40 FR 15239, April 4, 1975) and, subsequently, a less extensive proposed amendment of those rules (41 FR 21793, May 28, 1976). The latter proposal was intended to balance a somewhat broadened range of discovery with firm control by Administrative Law Judges of the pace and scope of adjudicative proceedings. After careful consideration of all comments submitted, the Commission has determined to promulgate the rules set forth below, pursuant to the authority of the Federal Trade Commission Act, 15 U.S.C. 41 et seq.

The Commission's general purpose in adopting these rules is to provide clearer standards, greater specificity, a

wider range of discovery devices, and more explicit authority for the Administrative Law Judges to control adjudicative proceedings. The procedures are intended to shorten adjudicative proceedings by enabling the parties to more precisely define the actual issues. The Commission anticipates—and commends to parties and Administrative Law Judges—more frequent use of expedited decisional methods, such as stipulated records and summary judgments, as a consequence of discovery. In order to assure firm control of the proceeding by the Administrative Law Judge, no discovery may be had without advance authorization by the Administrative Law Judge. In no instance is an Administrative Law Judge required to authorize discovery. When discovery is authorized, the Commission expects prompt compliance. The Commission intends its Administrative Law Judges vigorously to enforce the provisions of § 3.38.

Like the Commission's present discovery rules, the revised rules are intended, *inter alia*, both to provide several means by which parties to a Commission proceeding may require other parties or nonparties to supply information, and to permit the Commission and its Administrative Law Judges to control the burdens imposed by such compulsory procedures. The discovery rules do not provide the exclusive means by which parties may obtain information, and are not intended to limit such ability as a party otherwise may have to obtain information through voluntary means or that may otherwise be available to them (e.g., access requests under the Freedom of Information Act; information otherwise properly obtained by the Commission).<sup>1</sup> Where parties or nonparties are willing to do so voluntarily, they may of course provide or obtain information without resort to the formalities and procedural requirements applicable to nonvoluntary discovery. In this regard, in recognition of the fact that voluntary production commonly occurs and is often in the interests of all concerned, § 3.31(d) of the revised rules explicitly provides for stipulations as to discovery and procedure, upon approval of the Administrative Law Judge. Parties are especially encouraged to stipulate to cost-saving techniques like telephone depositions.

The Commission wishes to reiterate that these rules are intended to reaffirm and strengthen the authority of the Administrative Law Judge to supervise discovery. The Commission ex-

<sup>1</sup>In a statement dated June 2, 1978, concerning a subpoena issued to Atlantic Richfield Co., the Commission indicated that its existing discovery rules do not limit complaint counsel's access to information properly obtained by the Commission for other purposes. Nothing in the present revisions alters that interpretation.

pects that, in carrying out the duty to prescribe a discovery plan and schedule, in deciding whether or not to authorize a particular request for discovery, and in determining whether to "deny or limit discovery" pursuant to the protection order authority under § 3.31(c)(1), the Administrative Law Judge will take into account the contribution that such discovery may make to the resolution of the issues, the needs of the parties, and the public interest in disposition of the proceeding without undue delay. The Administrative Law Judge should give particular attention to these factors in considering requests for authorization of depositions or interrogatories.

Administrative Law Judges and the parties are encouraged to conduct discovery simultaneously and without undue formality. Whenever possible, arrangements to facilitate discovery should be arrived at informally. For example, the "order" reciting the results of a prehearing conference, required under § 3.21(e)(1), need be no more than a one-sentence order, such as an order entering into the record a letter between the parties that memorializes the conference.

Apart from numerous drafting changes, the principal changes from the May 1976 proposal are as follows:

1. Section 3.21 is amended to provide that one or more prehearing conferences must be held in every case. Such conferences will enable the Administrative Law Judge to ascertain what discovery is necessary in light of the issues in the proceeding. The Administrative Law Judge shall by order set a plan and schedule of discovery, including whatever limitations on discovery may be necessary in aid of expedition. This section is further amended to provide a mechanism whereby the issues in complex cases will, within set deadlines, be more precisely delineated. This new provision is § 3.21(b); the subsections of the former rule are renumbered accordingly.

2. The scope of discovery, as set forth in § 3.31(b), conforms to that proposed on March 31, 1978, for the Federal Rules of Civil Procedure by the Advisory Committee on Civil Rules: discovery may be authorized "upon a satisfactory showing that the requested discovery may reasonably be expected to yield any information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent." The same standard applies to discovery of parties and non-parties alike.

The Commission intends this precisely tailored standard to be applied so that unnecessary discovery will not be permitted. The party seeking discovery must state specifically how the requested discovery bears upon the issues as they have been framed by

the pleadings. In considering whether such a showing is "satisfactory," the Administrative Law Judge has broad discretion to weigh the probable relevancy of the information in light of his own assessment of the issues in the proceeding. The need for line-drawing of this kind is especially important in complex cases. See *Dolgow v. Anderson*, 53 F.R.D. 661, 664 (E.D.N.Y. 1971).

3. The Commission has reinserted a section (3.31) containing provisions applicable to discovery generally. It is substantially similar to Federal Rule 26 and to 1975 proposed § 3.31-2, with the following significant differences:

(a) It contains a provision on privilege adapted from Rule 501 of the Federal Rules of Evidence.

(b) It omits a provision comparable to paragraph 2 of Federal Rule 26(b)(3), because the mechanism provided there is unnecessary in Commission proceedings.

(c) It sets a ceiling on the amount that a party seeking discovery of another party's experts may be required to pay namely "the maximum specified in 5 U.S.C. 3109," unless the parties agree to, and the Administrative Law Judge orders, payment of a higher amount.

(d) It reserves, for the time being, the portion of the subsection on protective orders pertaining to the treatment of assertedly confidential business information. Such a provision has been published for comment at 43 FR 3571 (Jan. 26, 1978) as part of a separate rulemaking. After consideration of those comments, the Commission will decide in what form to promulgate § 3.31(c)(2). In the interim, Administrative Law Judges may continue to issue such protective orders in aid of their duty to conduct fair and impartial hearings and to avoid delay. See 16 CFR 3.42(c).

(e) It includes provisions on stipulations and on applications for compulsory process that were elsewhere in the rules.

4. A rule on interrogatories is added, modeled after Federal Rule 33. However, insofar as information is in the possession of the Commissioners, the General Counsel, the Administrative Law Judges, the Secretary in his capacity as custodian or recorder of any such information, and their respective staffs, that information is excluded from the rule. This exclusion is a necessary corollary of the separation of functions within the Commission. Access to such information continues to be governed by § 3.36. Also, a provision has been added (§ 3.37) for access orders to parties, paralleling in part the analogous provision in Federal Rule 34. The Commission has incorporated in both of these provisions requirements that records be made avail-

able in an orderly fashion, as suggested in the report of the Advisory Committee on Civil Rules.

5. The provisions for class deposition and subpoenas are deleted, because they pose an unacceptable risk to effective Administrative Law Judge supervision of discovery.

6. The previous provision for an order compelling appearance is deleted as unnecessary and dilatory. However, a new subsection (a) has been added to § 3.38, to provide for motions to compel answers to requests for admissions or to interrogatories.

7. Former § 3.31 is renumbered to § 3.32. This rule provides for party-generated requests for admissions. It is augmented by an additional provision (§ 3.42(c)(4)) that empowers the Administrative Law Judge *sua sponte* to compel admissions.

8. Former §§ 3.36 and 3.37 are combined in § 3.36.

The Commission rejects the suggestions of commenters that it return to the Federal Rules of Civil Procedure in their totality as a model, or conversely, make no change in its present rules. The Commission believes that, in general, parties should be permitted sufficient discovery to prepare their presentations effectively. In the long run, time will be saved if issues are explored in discovery, rather than at hearing. However, the complexity of many Commission proceedings and the potential for delay inherent in discovery require careful supervision, by the Administrative Law Judge, at every stage of the proceedings. Thus, though it has adopted the full panoply of Federal Rules devices (except Federal Rule 35 physical or mental examinations, which are unlikely to be required in Commission proceedings), the Commission has retained provisions for advance authorization of discovery and confirms the Administrative Law Judge's full authority to limit discovery in order to ensure fair, orderly, and expeditious proceedings. Where the Commission has adopted provisions substantially similar to provisions in the Federal Rules, judicial constructions of such analogous provisions may serve as interpretive aids, but they are not to be regarded as binding, because application of the Commission's rules must be tailored to the circumstances of Commission proceedings.

The Commission also rejects the contention of some commenters that the special provisions in § 3.36 regarding discovery of Commission and other government employees are improper. These provisions are "designed to accommodate the necessity of balancing the private litigant's right to prepare a proper defense against the government's vital interest in maintaining the integrity and efficiency of the ad-

ministrative process." *Coca Cola Co.*, 85 F.T.C. 398, 399 (1975). The discovery rules provide full and fair access to necessary information; due process requires no more.

The provisions concerning motions to quash have been revised to reflect formally the Commission's view that all objections must be presented in such motions and to make clear that, as is commonly done, such motions can and should be accompanied by all appropriate supporting materials.

The Commission will review the operation of these rules after one year, so as to ascertain whether they have in fact worked as the Commission intends.

Accordingly, § 3.21 of Subpart C, §§ 3.31, 3.32, 3.33, 3.34, 3.35, 3.36, 3.37, and 3.38 of Subpart D, and § 3.42(c) of Subpart E, Part 3, Subchapter A, Chapter I of Title 16 of CFR are amended as set forth below:

**Subpart C—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Decisions**

1. Section 3.21 is revised to read as follows:

**§ 3.21 Prehearing conferences.**

(a) *Purpose.* The Administrative Law Judge in every case shall direct counsel for all parties to meet with him for one or more conferences to consider any or all of the following:

- (1) Simplification and clarification of the issues;
- (2) Necessity or desirability of amendments to pleadings, subject, however, to the provisions of § 3.15;
- (3) A plan and schedule of discovery, and such limitations on discovery as may promote expedition;
- (4) Stipulations, admissions of fact and of the contents and authenticity of documents;
- (5) Expedition in the presentation of evidence including, but not limited to, restriction of the number of expert, economic, or technical witnesses;
- (6) Matters of which official notice will be taken and matters which may be resolved by reliance upon trade regulation and other rules pursuant to §§ 1.8 and 1.22(c) of this chapter; and
- (7) Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(b) *Complex cases.* In any case in which in his judgment the likely complexity of the case or other circumstances so warrant, the Administrative Law Judge shall institute the following procedures:

- (1) The Administrative Law Judge shall set a date for a prehearing con-

ference, to be held not later than 45 days after the filing of the answer to the complaint.

(2) The Administrative Law Judge shall order (i) that complaint counsel, not later than 30 days prior to such conference, file a nonbinding statement setting out the theory of the case, the issues to be tried, and what complaint counsel expect their evidence to prove; and (ii) that respondent, not later than 15 days prior to such conference, file a nonbinding statement setting out the theory of the defense, the issues to be tried, and what respondent expects its evidence to prove. Such statements may be changed upon completion of discovery or at such other times as the Administrative Law Judge may direct.

(3) The Administrative Law Judge shall, not later than 30 days after such conference, formulate a statement of the issues of the case, based upon the pleadings of the parties and their statements filed pursuant to this rule.

(4) The Administrative Law Judge may, at appropriate intervals, reformulate the statement of the issues of the case.

(c) *Subpoenas.* Prehearing conferences may be convened for the purpose of accepting returns on subpoenas duces tecum issued pursuant to the provisions of § 3.34(b).

(d) *Public Access and Reporting.* Prehearing conferences shall be public unless the Administrative Law Judge determines in his discretion that the conference (or any part thereof) shall be closed to the public. The Administrative Law Judge shall have discretion to determine whether a prehearing conference shall be stenographically reported.

(e) *Orders.* (1) The Administrative Law Judge shall enter in the record an order which recites the results of a prehearing conference. Such order shall include the Administrative Law Judge's rulings upon other matters considered at the conference, together with appropriate directions to the parties. The Administrative Law Judge's order shall control the subsequent course of the proceeding, unless modified to prevent manifest injustice. (2) In each proceeding the Administrative Law Judge shall enter an order establishing a plan and schedule of discovery and such other provisions as are necessary for the proper management of discovery in the proceeding. Such order may at any time be modified by the Administrative Law Judge for good cause shown.

#### Subpart D—Discovery; Compulsory Process

2. Section 3.31 is revised to read as follows:

#### § 3.31 General provisions.

(a) *Discovery Methods.* Parties may obtain discovery by one or more of the following methods: Depositions upon oral examination or written questions; written interrogatories; production of documents or things for inspection and other purposes; and requests for admission. Unless the Administrative Law Judge orders otherwise, the frequency or sequence of these methods is not limited.

(b) *Scope of Discovery.* Unless otherwise limited by order of the Administrative Law Judge or the Commission in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* The Administrative Law Judge may authorize discovery upon a satisfactory showing that the requested discovery may reasonably be expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent. Such information may include the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having any knowledge of any discoverable matter. It shall not be an adequate ground for denying such authorization that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Privilege.* Authorization for discovery may be denied or limited, or a protective order may be entered, to preserve the privilege of a witness, person, or governmental agency as governed by the Constitution, any applicable Act of Congress, or the principles of the common law as they may be interpreted by the Commission in the light of reason and experience.

(3) *Hearing Preparation: Materials.* Subject to the provisions of paragraph (b)(4) of this Section, a party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (b)(1) of this section and prepared in anticipation of litigation or for hearing by or for another party or by or for that other party's representative (including his attorney, consultant, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the Administrative Law Judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

(4) *Hearing Preparation: Experts.* (i) Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of paragraph (b)(1) of this section and acquired or developed in anticipation of litigation or for hearing, may be obtained only as follows:

(A) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (B) Upon motion, the Administrative Law Judge may order further discovery by other means, subject to such restrictions as to scope as the Administrative Law Judge may deem appropriate.

(ii) A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for hearing and who is not expected to be called as a witness at hearing, only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(iii) The Administrative Law Judge may require as a condition of discovery that the party seeking discovery pay the expert a reasonable fee, but not more than the maximum specified in 5 U.S.C. 3109 unless the parties have stipulated to a higher amount, for time spent in responding to discovery under paragraphs (b)(4)(i)(B) and (b)(4)(ii) of this section.

(c) *Protective Orders.* (1) The Administrative Law Judge may deny discovery or make any order which justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense, or to prevent undue delay in the proceeding.

(2) [Reserved]

(d) *Stipulations.* When approved by the Administrative Law Judge, the parties may by written stipulation (1) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and (2) modify the procedures provided by these rules for other methods of discovery.

(e) *Rulings on Applications For Compulsory Process.* Applications for authorization to take depositions pursuant to the provisions of § 3.33, applications for the issuance of subpoenas pursuant to the provisions of § 3.34 or of offers pursuant to the provisions of § 3.37 (other than as provided in

§ 3.36), and applications for authorization to serve interrogatories pursuant to the provisions of § 3.35 may be made *ex parte*, and, if so made, such applications and rulings thereon shall remain *ex parte* unless otherwise ordered by the Administrative Law Judge or the Commission. Such applications, and motions for protective orders shall be ruled upon by the Administrative Law Judge or, in the event the Administrative Law Judge is not available, by the Chief Administrative Law Judge or such other Administrative Law Judge as the Chief Administrative Law Judge may designate.

#### § 3.32 Admissions.

(a) At any time after thirty (30) days after issuance of complaint, or after publication of notice of an adjudicative hearing in a rulemaking proceeding under § 3.13, any party may serve on any other party a written request for admission of the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or are known to be, and in the request are stated as being, in the possession of the other party. Each matter of which an admission is requested shall be separately set forth. A copy of the request shall be filed with the Secretary.

(b) The matter is admitted unless, within ten (10) days after service of the request, or within such shorter or longer time as the Administrative Law Judge may allow, the party to whom the request is directed serves upon the party requesting the admission, with a copy filed with the Secretary, a sworn written answer or objection addressed to the matter. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known to, or readily obtainable by, him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested pre-

sents a genuine issue for trial may not, on that ground alone, object to the request; he may deny the matter or set forth reasons why he cannot admit or deny it.

(c) Any matter admitted under this rule is conclusively established unless the Administrative Law Judge on motion permits withdrawal or amendment of the admission. The Administrative Law Judge may permit withdrawal or amendment when the presentation of the merits of the proceeding will be subserved thereby and the party who obtained the admission fails to satisfy the Administrative Law Judge that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending proceeding only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

#### § 3.33 Depositions.

(a) *In general.* Any party may request the Administrative Law Judge to order the taking of a deposition or depositions of a named person or of a person or persons described with reasonable particularity. Such an order may be issued upon a satisfactory showing that the deposition or depositions may reasonably be expected to yield any information within the scope of discovery under § 3.31(b)(1). Such an order may also be issued to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence would not otherwise be available for presentation at the hearing. Depositions may be taken before any person having power to administer oaths, either under the law of the United States or of the state or other place in which the deposition is taken, who may be designated by the party seeking the deposition, provided that such person shall have no interest in the outcome of the proceeding. If such an order is issued, the party seeking the deposition shall serve upon each person whose deposition is sought and upon each party to the proceeding reasonable notice in writing of the time and place at which it will be taken, and the name and address of each person or persons to be examined, if known, and if the name is not known, a description sufficient to identify them.

(b) *Form of application.* Any party desiring to take a deposition or depositions shall make application in writing to the Administrative Law Judge making the showing required by paragraph (a) of this section and including, as appropriate, any applications or motions for subpoenas or other orders under §§ 3.34 or 3.36.

(c) *Notice to corporation or other organization.* A party may in a request for authorization of a deposition and in a subpoena *ad testificandum* name as the deponent a public or private corporation, partnership, association, governmental agency other than the Federal Trade Commission, or any bureau or regional office of the Federal Trade Commission, and describe with reasonable particularity the matters on which examination is requested. If such deposition is ordered and subpoena issued, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by any other procedure authorized in these rules.

(d) *Taking of deposition.* Each deponent shall be duly sworn, and any party shall have the right to question him. Objections to questions or to evidence presented shall be in short form, stating the grounds of objections relied upon. The questions propounded and the answers thereto, together with all objections made, shall be recorded and certified by the officer. Thereafter, upon payment of the charges therefor, the officer shall furnish a copy of the deposition to the deponent and to any party.

(e) *Depositions upon written questions.* A party desiring to take a deposition upon written questions shall, upon order of the Administrative Law Judge, serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation, partnership, association, governmental agency other than the Federal Trade Commission, or any bureau or regional office of the Federal Trade Commission in accordance with the provisions of Rule 3.33(c). Within 30 days after the notice and written questions are served, any other party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, the party taking the deposition may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, any other party may serve recross questions upon all other parties. The content of any question shall not be disclosed to the deponent prior to the

taking of the deposition. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly to take the testimony of the deponent in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him. When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.

(f) *Correction of deposition.* A deposition may be corrected, as to form or substance, in the manner provided by § 3.44(b). Any such deposition shall, in addition to the other required procedures, be read to or by the deponent and signed by him, unless the parties by stipulation waive the signing or the deponent is unavailable or cannot be found or refuses to sign. If the deposition is not signed by the deponent within 30 days of its submission or attempted submission, the officer shall sign it and certify that the signing has been waived or that the deponent is unavailable or that the deponent has refused to sign, as the case may be, together with the reason for the refusal to sign, if any has been given. The deposition may then be used as though signed unless, on a motion to suppress under Rule 3.33(g)(3)(iv), the Administrative Law Judge determines that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. In addition to and not in lieu of the procedure for formal correction of the deposition, the deponent may enter in the record at the time of signing a list of objections to the transcription of his remarks, stating with specificity the alleged errors in the transcript.

(g)(1) *Use of Depositions in Hearings.* At the hearing on the complaint or upon a motion, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(i) Any deposition may be used for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(ii) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of a public or private corporation, partnership or association which is a party, or of an official or employee (other than a special employee) of the Commission,

may be used by an adverse party for any purpose.

(iii) A deposition may be used by any party for any purpose if the Administrative Law Judge finds: (A) That the deponent is dead; or (B) that the deponent is out of the United States or is located at such a distance that his attendance would be impractical, unless it appears that the absence of the deponent was procured by the party offering the deposition; or (C) that the deponent is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (D) that the party offering the deposition has been unable to procure the attendance of the deponent by subpoena; or (E) that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(iv) If only part of a deposition is offered in evidence by a party, any other party may introduce any other part which ought in fairness to be considered with the part introduced.

(2) *Objections to Admissibility.* Subject to the provisions of paragraph (g)(3) of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(3) *Effect of Errors and Irregularities in Depositions—(i) As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(ii) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(iii) *As to taking of deposition.* (A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection

thereto is made at the taking of the deposition.

(C) Objections to the form of written questions are waived unless served in writing upon all parties within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(iv) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, endorsed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or with due diligence might have been ascertained.

### § 3.34 Subpoenas.

(a) *Subpoenas ad testificandum.* Application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at an adjudicative hearing shall be made in writing to the Administrative Law Judge. If for the purpose of discovery, such subpoena may be issued upon a satisfactory showing that the testimony may reasonably be expected to yield any information within the scope of discovery under § 3.31(b)(1). If to preserve relevant evidence, such subpoena may be issued upon a showing that there is substantial reason to believe that such evidence would not otherwise be available for presentation at the hearing. If for testimony at an adjudicative hearing, such subpoena may be issued upon a showing of the reasonable relevancy of the expected testimony.

(b) *Subpoenas duces tecum.* Application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specified documents (including writings, drawings, graphs, charts, photographs, phono records and other recordings, and other data compilations from which information can be obtained (translated, if necessary, by the person into reasonably usable form)) at the taking of a deposition, or at a prehearing conference, or at an adjudicative hearing shall be made in writing to the Administrative Law Judge, shall specify with reasonable particularity the material to be produced, showing that the material sought is reasonable in scope and, if for the purpose of discovery, falls within the limits of permissible discovery under § 3.31(b)(1), or, if for an adjudicative hearing, is reasonably relevant. Subpoenas *duces tecum* may be used by any party for purposes of discovery or for obtaining documents for use in evidence, or for both purposes.

(c) *Motions to Quash.* Any motion by the subject of a subpoena to limit or

quash the subpoena shall be filed within the earlier of ten (10) days after service thereof or the time for compliance therewith. Such motion shall set forth all assertions of privilege or other factual and legal objections to the subpoena, including all appropriate argument, affidavits and other supporting documentation.

§ 3.35 Interrogatories to parties.

(a) *Availability; Procedures for Use.*

(1) Upon authorization by the Administrative Law Judge, any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation, partnership, association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. For this purpose, information shall not be deemed to be available insofar as it is in the possession of the Commissioners, the General Counsel, the office of Administrative Law Judges, or the Secretary in his capacity as custodian or recorder of any such information, or their respective staffs.

(2) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to on grounds not raised and ruled on in connection with the authorization, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories, except that a respondent may serve answers or objections within 45 days after service of the complaint upon that respondent. The Administrative Law Judge may allow a shorter or longer time.

(b) *Scope; Use at Hearing.* (1) Interrogatories may relate to any matters which can be inquired into under § 3.31(b)(1), and the answers may be used to the extent permitted by the rules of evidence.

(2) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the Administrative Law Judge may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pre-trial conference or other later time.

(c) *Option to Produce Records.* Where the answer to an interrogatory may be derived or ascertained from the records of the party upon whom the interrogatory has been served or from an examination, audit or inspec-

tion of such records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. The specification shall include sufficient detail to permit the interrogating party to identify readily the individual documents from which the answer may be ascertained.

§ 3.36 Applications for subpoenas for records of the commission or other governmental agency and for appearance of commission or other government officials and employees.

(a) *Form.* An application for issuance of a subpoena for documents (as defined in § 3.34(b)), or for the issuance of an order requiring access to documents pursuant to § 3.37, in the possession, custody, or control of the Federal Trade Commission or its employees, or of another governmental agency or its employees; or for the issuance of a subpoena requiring the appearance of an official or employee of the Commission, including complaint counsel, or the appearance of an official or employee of another governmental agency, shall be made in the form of a written motion filed in accordance with the provisions of § 3.22(a). No application for records pursuant to § 4.11 of this chapter or the Freedom of Information Act may be filed with the Administrative Law Judge.

(b) *Content.* The motion shall make the same showing required to obtain a subpoena under § 3.34 or an order under § 3.37, together with a specific showing that the information or material sought cannot reasonably be obtained by other means.

§ 3.37 Access for inspection and other purposes.

(a) *Availability; Procedures for Use.* Upon application in writing by any party, the Administrative Law Judge may issue an order requiring a party (1) to permit the party making the request, or someone acting on his behalf, to inspect and copy any designated documents, as defined in § 3.34(b), or to inspect and copy, test, or sample any tangible things which are in the possession, custody or control of the party upon whom the order would be served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the order would be served

for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon. Each such application shall specify with reasonable particularity the documents or things to be inspected, or the property to be entered, showing that the material sought is reasonable in scope and falls within the limits of permissible discovery under § 3.31(b)(1). Each such application shall also specify a reasonable time, place, and manner of making the inspection and performing the related acts. A party shall make documents available as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the order that requires their production.

(b) *Motions to Quash.* Any motion by the subject of an order to limit or quash the order shall be filed within the earlier of ten (10) days after service thereof or the time for compliance therewith. Such motion shall set forth all assertions of privilege or other factual and legal objections to the order, including all appropriate argument, affidavits and other supporting documentation.

§ 3.38 Motion for order compelling answer; sanctions.

(a) A party who has requested admissions or who has served interrogatories may move to determine the sufficiency of the answers or objections thereto. Unless the objecting party sustains his burden of showing that the objection is justified, the Administrative Law Judge shall order that an answer be served. If the Administrative Law Judge determines that an answer does not comply with the requirements of these rules, he may order either that the matter is admitted or that an amended answer be served. The Administrative Law Judge may, in lieu of these orders, determine that final disposition may be made at a prehearing conference or at a designated time prior to trial.

(b) If a party or an officer or agent of a party fails to comply with a subpoena or with an order including, but not limited to, an order for the taking of a deposition, the production of documents, or the answering of interrogatories, or requests for admissions; or an order of the Administrative Law Judge or the Commission issued as, or in accordance with, a ruling upon a motion concerning such an order or subpoena or upon an appeal from such a ruling, the Administrative Law Judge or the Commission, or both, for the purpose of permitting resolution of relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may take such action in regard thereto as is

just, including but not limited to the following:

(1) Infer that the admission, testimony, documents or other evidence would have been adverse to the party;

(2) Rule that for the purposes of the proceeding the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party;

(3) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer, or agent, or the documents or other evidence;

(4) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence would have shown;

(5) Rule that a pleading, or part of a pleading, or a motion or other submission by the party, concerning which the order or subpoena was issued, be stricken, or that a decision of the proceeding be rendered against the party, or both.

(c) Any such action may be taken by written or oral order issued in the course of the proceeding or by inclusion in an initial decision of the Administrative Law Judge or an order or opinion of the Commission. It shall be the duty of parties to seek and Administrative Law Judges to grant such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for withheld testimony, documents, or other evidence. If in the Administrative Law Judge's opinion such relief would not be sufficient, or in instances where a nonparty fails to comply with a subpoena or order, he shall certify to the Commission a request that court enforcement of the subpoena or order be sought.

#### § 3.42 Presiding Officials.

(c) *Powers and duties.* Administrative Law Judges shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. They shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpoenas and orders requiring answers to questions;

(3) To take depositions or to cause depositions to be taken;

(4) To compel admissions, upon request of a party or on their own initiative;

(5) To rule upon offers of proof and receive evidence;

(6) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(7) To hold conferences for settlement, simplification of the issues, or any other proper purpose;

(8) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults;

(9) To make and file initial decisions;

(10) To certify questions to the Commission for its determination; and

(11) To take any action authorized by the rules in this part or in conformance with the provisions of the Administrative Procedure Act as restated and incorporated in Title 5, U.S.C.

By direction of the Commission dated November 9, 1978.

CAROL M. THOMAS,  
*Secretary.*

[FR Doc. 78-33772 Filed 12-1-78; 8:45 am]

#### [6750-01-M]

#### MOTIONS TO QUASH COMPULSORY PROCESS

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: Section 1.13(d)(6), 2.7(b), 2.11(b), and 2.12(d) are amended to provide that objections to Commission demands for information should set forth all claims of privilege or other objections including all supporting documentation. A parallel technical amendment is made to § 4.9(b)(22). These amendments codify requirements under existing Commission practices.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerold D. Cummins, Deputy Assistant General Counsel, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, (202) 523-1928.

In consideration of the foregoing, 16 CFR Chapter I is amended as follows:

#### PART I—GENERAL PROCEDURES

##### § 1.13 [Amended]

(1) Add to § 1.13(d)(6) just before the next to the last full sentence.

(d) \*\*\*

(6) \*\*\* Such motion shall set forth all assertions of privilege or other factual and legal objection to the ruling, including all appropriate argument, affidavits and other supporting documentation. \*\*\*

#### PART 2—NONADJUDICATIVE PROCEDURES

##### § 2.7 [Amended]

(2) Add to § 2.7(b) after the first sentence:

(b) \*\*\* Such motion shall set forth all assertions of privilege or other factual and legal objections to the subpoena, including all appropriate argument, affidavits and other supporting documentation. \*\*\*

##### § 2.11 [Amended]

(3) Add to § 2.11(b) after the first sentence:

(b) \*\*\* Such motion shall set forth all assertions of privilege or other factual and legal objections to the order requiring access, including all appropriate argument, affidavits and other supporting documentation. \*\*\*

##### § 2.12 [Amended]

(4) Add to § 2.12(d) after the first sentence:

(d) \*\*\* Such motion shall set forth all assertions of privilege or other factual and legal objection to the order requiring a report or answer to specific questions, including all appropriate argument, affidavits and other supporting documentation. \*\*\*

#### PART 4—MISCELLANEOUS RULES

##### § 4.9 [Amended]

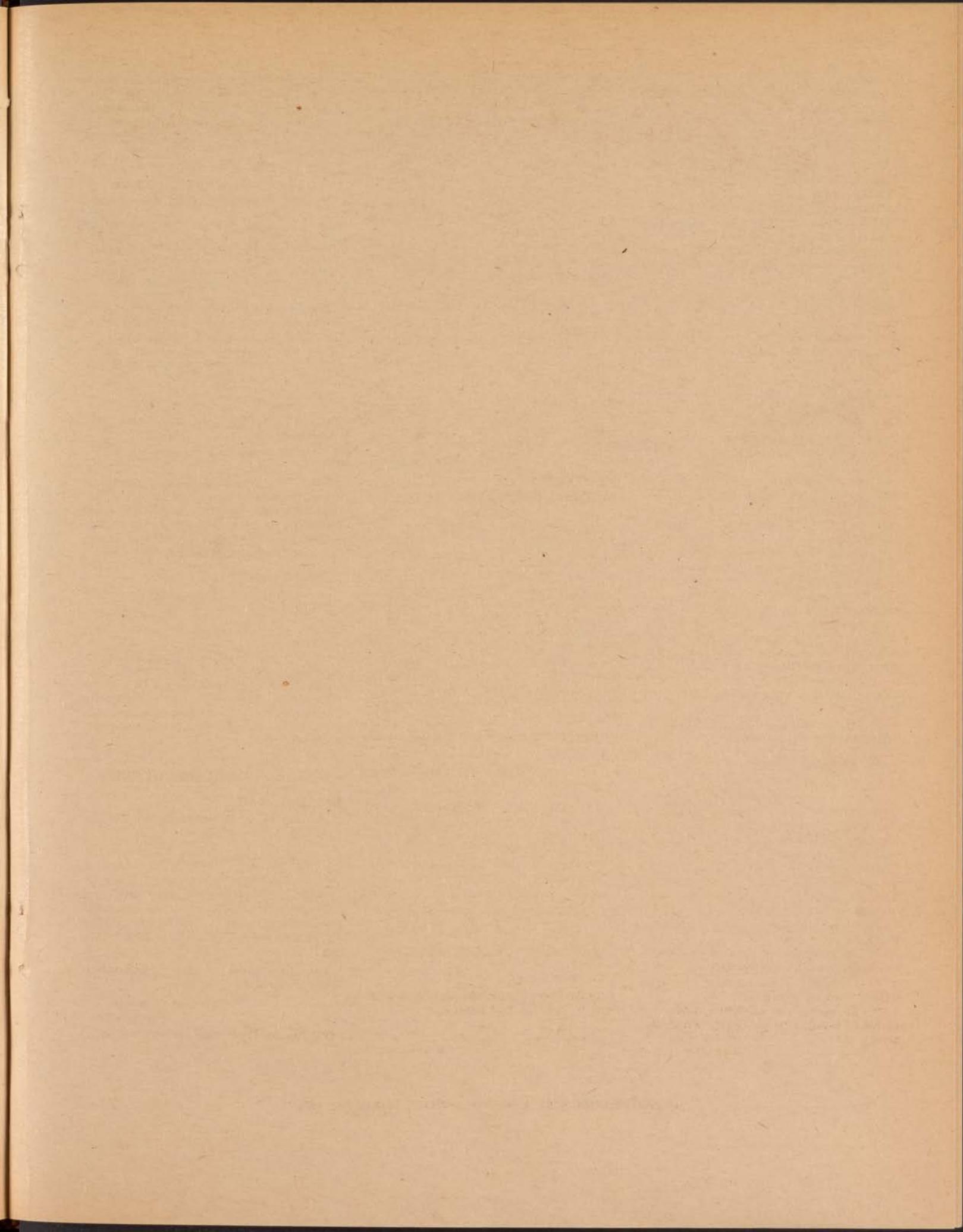
(5) Revise § 4.9(b)(22) to read in its entirety:

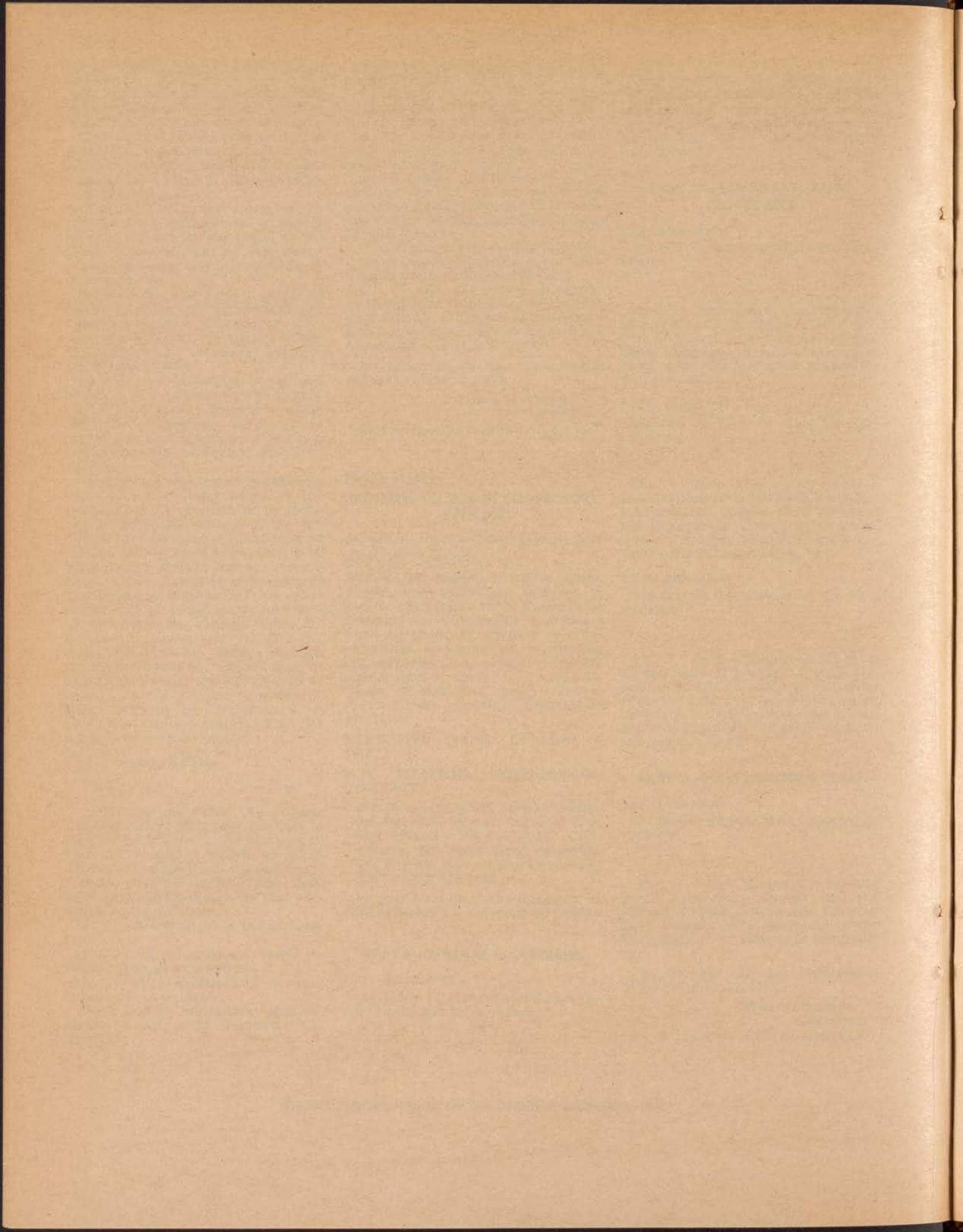
(b) \*\*\* (22) Motions to limit or quash compulsory process, and the rulings thereon, except for information exempt from disclosure under § 4.10(a)(2) or § 4.10(a)(7) of this chapter.

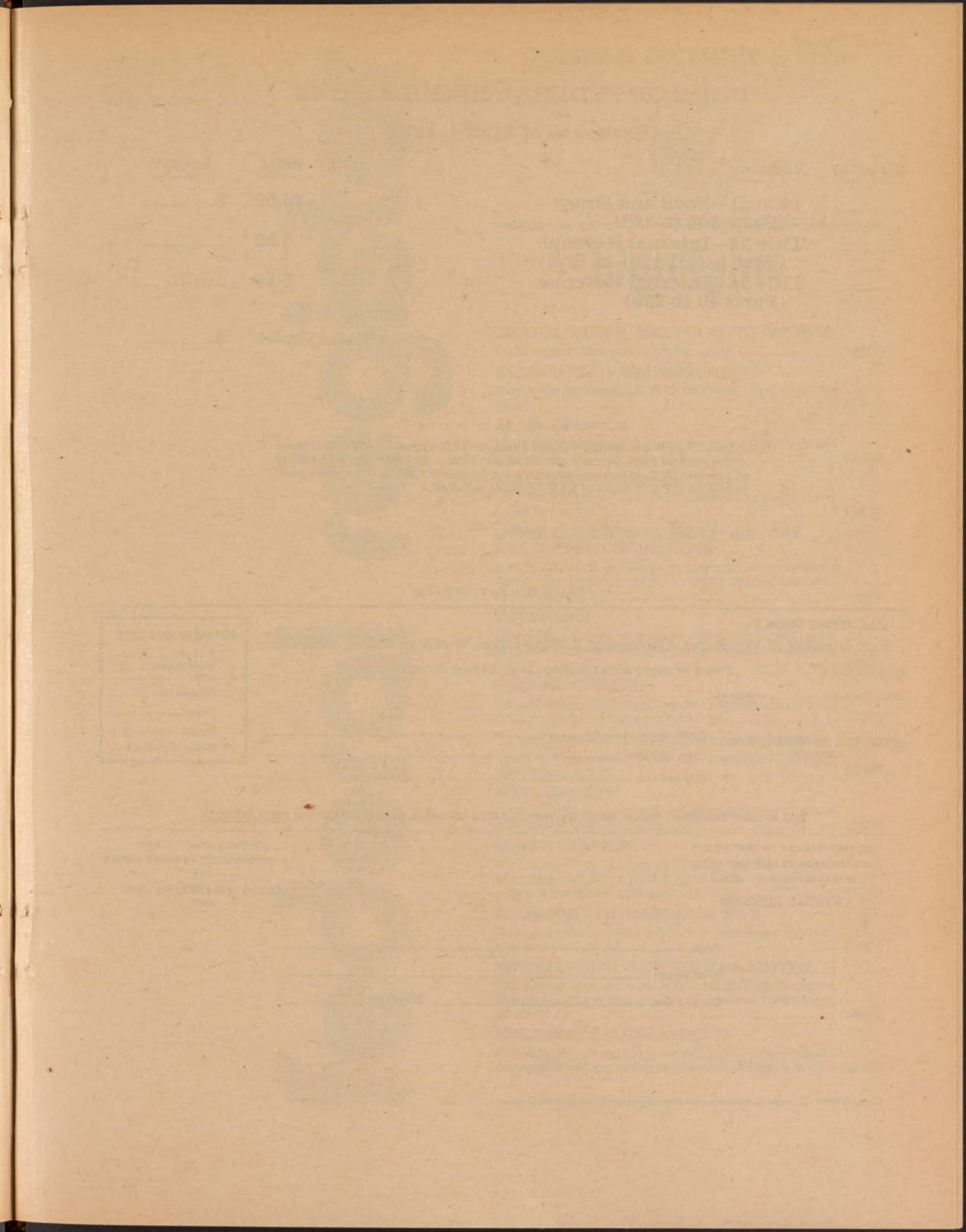
By direction of the Commission dated November 9, 1978.

CAROL M. THOMAS,  
*Secretary.*

[FR Doc. 78-33773 Filed 12-1-78; 8:45 am]







# CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1978)

<u>Quantity</u>	<u>Volume</u>	<u>Price</u>	<u>Amount</u>
_____	Title 21—Food and Drugs (Parts 500 to 599)	\$5.00	\$ _____
_____	Title 26—Internal Revenue (Part 1, §§ 1.1201 to End)	6.50	_____
_____	Title 26—Internal Revenue (Parts 40 to 299)	5.50	_____
		<b>Total Order</b>	<b>\$ _____</b>

[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

PLEASE DO NOT DETACH

**MAIL ORDER FORM To:**

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find \$..... (check or money order) or charge to my Deposit Account No. ....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL  
BELOW

Name \_\_\_\_\_  
 Street address \_\_\_\_\_  
 City and State \_\_\_\_\_ ZIP Code \_\_\_\_\_

FOR USE OF SUPT. DOCS.	
.....	Enclosed.....
.....	To be mailed
.....	later.....
.....	Subscription.....
.....	Refund.....
.....	Postage.....
.....	Foreign Handling.....

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING **YOUR ZIP CODE**

SUPERINTENDENT OF DOCUMENTS  
 U.S. GOVERNMENT PRINTING OFFICE  
 WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID  
 U.S. GOVERNMENT PRINTING OFFICE  
 375  
 SPECIAL FOURTH-CLASS RATE  
 BOOK

Name \_\_\_\_\_  
 Street address \_\_\_\_\_  
 City and State \_\_\_\_\_ ZIP Code \_\_\_\_\_