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Monday
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Highlights

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Highlights

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service (Marketing Agreements and Orders; Milk)

7 CFR Part 1079

[Milk Order No. 79; Docket No. AO-295-A33]

Milk in the Iowa Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service. USDA.

ACTION: Final rule.

SUMMARY: This action amends the order based on proposals considered at a public hearing held in September 1978. The amended order modifies the definition of "handler", and the basis for pooling distributing plants and supply plants is revised. The changes are needed to reflect current marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued September 5, 1978, published September 8, 1978 (43 FR 4028).

Recommended decisions: Issued January 25, 1979, published January 30, 1979 (44 FR 5887).

Final decision: Issued April 16, 1979, published April 19, 1979 (44 FR 23245).

Suspension of rule: Issued April 25, 1979, published April 26, 1979 (44 FR 24560).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Iowa marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interests; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1079.7, paragraph (a)(2) is revised, a new paragraph (a)(3) is added, and paragraph (b) is revised to read as follows:

§ 1097.7 Pool plant.

* * * * *

(a) * * *

(2) Not less than 15 percent of such receipts are disposed of as route disposition (except filled milk) in the marketing area; and

(3) A unit consisting of at least two plants operated by a handler shall be considered as one distributing plant for the purpose of meeting the requirements of this paragraph if:

(i) Fluid milk products are processed and packaged at each plant;

(ii) Each plant meets the requirements of paragraph (a)(2) of this section; and

(iii) The handler notified the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. To add plants to the unit, to drop them, or to discontinue the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made.

(b) Any plant (which, if qualified pursuant to this paragraph, shall be known as a "pool supply plant") that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which during the

month the volume of bulk fluid milk products transferred to pool distributing plants during each of the months of September through November is 35 percent or more and during each of the months of December through August is 20 percent or more of the total Grade A milk received at the plant from dairy farmers and handlers described in § 1079.9(c), including milk diverted therefrom by the plant operator pursuant to § 1079.13, subject to the following conditions:

(1) The shipping percentages of this paragraph may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if he finds that such revision is necessary to result in needed shipments to pool distributing plants for Class I use, or to prevent uneconomic shipments, subject to the following conditions:

(i) Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons. If the investigation shows that a revision of the shipping percentage might be appropriate, he shall issue a notice stating that the revision is being considered and invite data, views, and arguments; and

(ii) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to this subparagraph unless it had been a pool supply plant during each of the immediately preceding three months.

(2) For plants located within the States of Iowa, Minnesota, Wisconsin, or that portion of Illinois north of Interstate 80, the shipping requirements of this paragraph may also be met in the following ways:

(i) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1079.9(c);

(ii) A proprietary handler may include as qualifying shipments milk diverted pursuant to § 1079.13(d) to pool distributing plants;

(iii) The operator of a supply plant may include as qualifying shipments transfers of fluid milk products to distributing plants regulated under other Federal orders, except that credit for such transfers shall be limited to the amount of milk, including milk shipped directly from producers' farms, delivered to pool distributing plants under this order; and

(iv) Two or more supply plants operated by the same handler or by one or more cooperative associations may qualify for pooling as a unit by meeting the applicable percentage requirements of this paragraph in the same manner as a single plant if the handler submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period of September through August of the following year.

The request shall list the plants to be included in the unit in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire unit for pooling, the plant last on the list shall be excluded from the unit, followed by the plant next-to-last on the list, and continuing in this sequence until remaining plants on the list have met the minimum shipping requirements. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler submits a written request to the market administrator prior to the first day of the month that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

* * * * *

2. In § 1079.9, paragraphs (b) and (c) are revised as follows:

§ 1079.9 Handler.

* * * * *

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant in accordance with § 1079.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant in a tank truck owned and operated by, or under the control of, such cooperative association. If the milk is delivered to the pool plant of another handler, the plant operator may be the handler for such milk if both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will purchase such milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative at the location of the pool plant to which such milk is delivered;

* * * * *

3. In § 1079.42, paragraph (e) is revised as follows:

§ 1079.42 Classification of transfers and diversions.

* * * * *

(e) *Transfers by a handler described in § 1079.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1079.9(c) to a pool plant shall be classified pursuant to § 1079.44 pro rata with producer milk received at the transferee-handler's plant.

4. In § 1079.60, paragraph (g) is revised as follows:

§ 1079.60 Handler's value of milk for computing uniform price.

* * * * *

(g) Subtract, for a handler described in § 1079.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a handler's pool plant during the month.

5. In § 1079.71, paragraph (a)(2)(i) is revised as follows:

§ 1079.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value at the uniform price, as adjusted pursuant to § 1079.75, of such handler's receipts of producer milk and milk received from a handler described in § 1079.9(c). In the case of a handler described in § 1079.9(c), less the amount due from handlers pursuant to § 1079.73, exclusive of differential butterfat values; and

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: July 1, 1979.

Signed at Washington, D.C. on: May 15, 1979.

Jerry C. Hill,

Deputy Assistant Secretary.

[FR Doc. 79-15718 Filed 5-18-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the interpretations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period April 1, 1979, through April 30, 1979. Appendix B identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461 (202) 633–9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR 205, Subpart F, are published in the Federal Register in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR Part 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The interpretations published below are not subject to appeal.

Issued in Washington, D.C., May 15, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

Appendix A.—*Interpretations*

No.	To	Date	Category	File No.
1979–6	Richard L. Robinson, d.b.a. Remington Blue Flame Leon Ritenour, d.b.a. North Manchester Blue Flame Robert E. Snyder, d.b.a. North Webster Blue Flame Robert Blocker, d.b.a. Markle Blue Flame Sulphur Springs L.P. Gas, Inc. Claude Wright, d.b.a. Deshler Blue Flame, Inc. James R. Boone, d.b.a. Madison Blue Flame Robert Ernst, d.b.a. Columbia City Blue Flame D. Gene Bennett, d.b.a. Winamac Blue Flame Chester C. Moore, d.b.a. Blue Blaze Gas Co., Inc. Norman Grosch, d.b.a. Grosch Blue Flame Jerry Spratt, d.b.a. Hillsdale Blue Flame	Apr. 2	Allocation	A–316 through A–327.
1979–7	Gulf Oil Corporation Mobil Oil Corporation	Apr. 10	Price	A–278 and A–265.

Interpretation 1979–6

To: Richard L. Robinson, d.b.a. Remington Blue Flame; Leon Ritenour, d.b.a. North Manchester Blue Flame; Robert B. Snyder, d.b.a. North Webster Blue Flame; Robert Blocker, d.b.a. Markle Blue Flame; Sulphur Springs L.P. Gas, Inc.; Claude Wright, d.b.a. Deshler Blue Flame, Inc.; James R. Boone, d.b.a. Madison Blue Flame; Robert Ernst, d.b.a. Columbia City Blue Flame; D. Gene Bennett, d.b.a. Winamac Blue Flame; Chester C. Moore, d.b.a. Blue Blaze Gas Co., Inc.; Norman Grosch, d.b.a. Grosch Blue Flame; Jerry Spratt, d.b.a. Hillsdale Blue Flame.

Regulations and Rulings Interpreted: 10 CFR 210.62, 211.51, and Ruling 1975–8.

Code: GCW—AI—Normal business practices and wholesale purchaser-reseller, def.

Facts

Blue Flame Gas Corporation (Blue Flame), a subsidiary of Tenneco Oil Company, supplies liquefied petroleum gas (propane), an allocated product for the purposes of 10 CFR Part 211, to the 12 above-referenced consignees in Indiana and Ohio. These consignees have each filed separate Requests for Interpretation pursuant to 10 CFR 205.80 with the Department of Energy (DOE), all of which are addressed in this Interpretation because they raise essentially the same legal issues in substantially similar factual contexts.

Each of the 12 consignees operates according to the terms and obligations set forth in a "Distributor Agreement," as amended, or "Manager Agreement," as amended, entered into with Blue Flame.[1] Pursuant to these agreements, Blue Flame is obligated to supply propane to bulk plants for delivery to various retail and wholesale purchasers. The bulk plants, which are owned by Blue Flame, consist of a bulk tank with appropriate pumping and metering equipment, propane cylinders and cylinder loading equipment, truck tanks, and cylinders leased to customers. Delivery of the propane for sale by Blue Flame is performed by the 12 consignees, who obtain the product from the Blue Flame bulk plants on a consignment basis. Upon the consummation of the sale to a retail or wholesale purchaser, title to the product passes from Blue Flame directly to the purchaser, and the consignee receives a commission specified in a Blue Flame commission schedule.

The agreements further provide that Blue Flame pays all taxes and insurance on the real property and storage tanks which it owns. However, each consignee assumes responsibility for furnishing all labor and truck chassis necessary for the delivery of propane to customers, as well as the payment of all operating expenses associated with the delivery of Blue Flame's product, including truck maintenance and depreciation, comprehensive automobile liability insurance, fuel for the trucks, licenses, workmen's compensation, unemployment taxes, payrolls, and other related expenses.

The consignees are also obligated by the terms of the agreements to solicit new customers for Blue Flame, while Blue Flame maintains the right to approve credit terms and set propane prices for these customers.[2] Payments collected by the consignees in sales of propane are deposited into a bank account in Blue Flame's name. All customer accounts unpaid for more than 90 days (unless different credit terms have been approved by Blue Flame) become the obligation of the consignee, from whose commissions is deducted the amount of the unpaid account plus interest. However, a consignee has the authority to terminate any customer that fails to settle its account in a timely manner.

The assets utilized by the 12 consignees in the business of distributing Blue Flame product are also substantially the same with certain noted exceptions. All of the consignees own and maintain miscellaneous tools necessary for servicing customers, including specialized propane equipment; an inventory of copper tubing, fittings, repair parts and tank fittings; substantial office equipment required to maintain customer records and service customer repairs; delivery truck chassis, including piping, pumping and metering equipment; and pickup trucks used for delivering 100-pound containers. In addition to these items, Jerry Spratt owns all the 100-pound cylinders used in his business, one delivery truck tank, and the office building and land where he conducts his business; Norman Grosch owns one delivery truck tank; Chester Moore owns two delivery truck tanks and all 100-pound bottle-gas containers used in his business;

[1] For purposes of this Interpretation, the 12 individual agreements between the consignees and Blue Flame will be treated together since the relevant provisions are essentially the same. All of the agreements were entered into prior to June 1971.

[2] The consignees may deliver products at prices lower than those established by Blue Flame if they are willing to accept a commensurate commission decrease.

and James Boone owns one delivery truck tank and the office building and land where he conducts his business.

The commissions paid by Blue Flame to the consignees constitute their sole remuneration for the services which they perform related to the distribution of Blue Flame's propane. In August 1974, Blue Flame and the 12 consignees executed amendments to their separate agreements which altered the method of computing the commissions paid by Blue Flame.[3]

Based on these facts, the consignees seek classification under the Mandatory Petroleum Allocation Regulations as wholesale purchaser-resellers. If the consignees qualify for such treatment under 10 CFR Part 211, they further assert that the amendments to their commission schedules occurring subsequent to the base period should be treated as deviations from normal business practices in violation of 10 CFR 210.62, and therefore void.

Issues

1. Do these consignees operating as propane distributors for Blue Flame in the manner described above qualify under 10 CFR 211.51 as wholesale purchaser-resellers?

2. If the consignees qualify as wholesale purchaser-resellers, does the normal business practices rule of 10 CFR 210.62 prohibit amendments which have been mutually agreed upon by the parties, and which alter the method by which the consignees' commissions are calculated?

Interpretation

For the reasons set forth below, consignees that distribute propane under the circumstances set forth above qualify as wholesale purchaser-resellers, as that term is defined in 10 CFR 211.51. However, inasmuch as the commissions which the consignees receive for their services in no way constitute an aspect of price related to the sale of an allocated product, the provisions of 10 CFR 210.62 do not prohibit Blue Flame (through amendments to the original commission schedules) from changing the method of computing the consignees' commissions.

A wholesale purchaser-reseller is defined in 10 CFR 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form." 39 FR 35472 (October 1, 1974).

The use of the term "as by consignment" in this definition was interpreted in Ruling 1975–8, 40 FR 30037 (July 17, 1975), to allow firms which obtain and resell or otherwise transfer allocated products to qualify as wholesale purchaser-resellers without regard to whether they take legal title to the allocated product. The Ruling further stated:

Therefore, those consignees which have a *substantial degree of operational independence* in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between the supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers. (Emphasis added.)

Some of the factors to be considered in determining whether a particular consignee exercises a "substantial degree of operational independence in the conduct of [its] business" were set forth in the following language of Ruling 1975–8:

A consignee which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, *will generally have most (but not necessarily all) of the following characteristics:* (a) appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's products; (b) responsibility, independent of its supplier, for its internal financial management and physical and administrative operations, (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than solely being restricted to distributing product to customers designated by the supplier. (Emphasis added.)

It is clear from the above language in Ruling 1975–8, *supra*, that the dispositive issue in determining the status of these 12 consignees is whether they generally have most of the aforementioned characteristics necessary to exhibit a "substantial degree of operational independence" in their business of distributing Blue Flame propane. Since Ruling 1975–8, *supra*, was "intended to provide only general guidance for determining which consignees" qualify as wholesale purchaser-resellers, firms were directed by the Ruling to file a Request for Interpretation with the Office of General Counsel when in doubt as to a particular consignee's status.

On October 14, 1977, the DOE issued an Interpretation to Kellermyer's, Inc., a Blue Flame consignee that distributed propane, concluding that the firm qualified under 10 CFR 211.51 and Ruling 1975–8 as a wholesale purchaser-reseller. *Kellermyer's, Inc.*, Interpretation 1977–39, 42 FR 61271 (December 2, 1977). In a recent Decision and Order denying an appeal of *Kellermyer's* by Tenneco Oil Company (on behalf of Blue Flame), the DOE stated:

We believe that Kellermyer retains a sufficient degree of autonomy in his business to warrant the designation wholesale purchaser-reseller. He owns the trucks used to deliver propane. He hires employees. He pays the expenses of delivery. He solicits new customers. He may unilaterally terminate the contracts of customers who do not pay their bills. Most importantly, Kellermyer must fully compensate Blue Flame for accounts over 90 days due. These facts indicate that Kellermyer plays a considerably greater role than an employee or delivery agent for Blue Flame.

Tenneco Oil Company, No. DIA–0147 (January 15, 1979). These facts and circumstances, as well as the pertinent contractual provisions (including commission schedule amendments) under which Kellermyer's, Inc., operated, are in all essential respects identical to those of the 12 consignees currently seeking an interpretation. Consequently, based upon the determination made in *Kellermyer's*, the DOE concludes that the 12 consignees currently under consideration exercise the substantial degree of operational independence required to qualify as wholesale purchaser-resellers, and they are therefore entitled to the applicable benefits and subject to the applicable obligations prescribed by the Mandatory Petroleum Allocation Regulations.

In their Requests for Interpretation, the 12 consignees have also sought an interpretation that as wholesale purchaser-resellers the contractual amendments modifying the method by which their commissions are computed are void as contrary to 10 CFR 210.62. They assert that such modifications of practices in effect during the base period would constitute a deviation from normal business practices as that term is used in § 210.62.

The relationship between a supplier of petroleum products and a distributor that delivers those products to customers for an agreed-upon commission has been analyzed previously. In *Rotary Gasoline Dealers*, Interpretation 1975–48, 42 FR 23751 (May 10, 1977), we discussed the commissions paid to distributors [4] of petroleum products in the context of the Mandatory Petroleum Price Regulations. That Interpretation determined that the regulations set forth in 10 CFR Part 212 had no application to the distributors' commissions since there was no sale of a covered product by the distributor. In that regard, the Interpretation stated:

[C]ommission agents generally perform services for a seller in connection with the sale of petroleum products, for which they are compensated by the seller pursuant to the terms of a contract between the seller and the agents. There is no sale of product and, hence, no product price is established between the seller and the agent that could be subject to FEA price regulations. The price regulations simply establish the maximum lawful prices the seller may charge in sales made through commission agents.

There are no FEA regulations applicable to the specific terms under which sellers contract for distribution services, just as there are no regulations applicable to the terms under which sellers obtain other services * * *.

Id. at 23751–52. Thus, according to *Rotary Gasoline Dealers*, the Mandatory Petroleum Price Regulations have no application to the terms under which a supplier pays a distributor of petroleum products for its services.

[3] For purposes of this Interpretation, we must presume that such amendments were legally executed by both parties. Claims by consignees of certain defects in the bargaining and execution of these amendments are not appropriately resolved in the context of this Interpretation.

[4] No determination was made in *Rotary Gasoline Dealers* as to whether the particular commission agents involved qualified as wholesale purchaser-resellers.

Notwithstanding the clear application of Part 211 to the Blue Flame consignees that have qualified as wholesale purchaser-resellers, there is no basis upon which to apply either Part 212 or Part 210 of the DOE regulations to their commissions. As stated in 10 CFR 212.2, the price rules are applicable to "each sale or purchase of a covered product in the United States." Inasmuch as consignees do not actually purchase or take title to the products which they distribute, they do not make a sale for purposes of the Mandatory Petroleum Price Regulations. This conclusion was clearly enunciated in *R.C. Fresh, et al.*, Interpretation 1977–8, 42 FR 31144 (June 20, 1977).[5] That Interpretation also addressed the question of the applicability of § 210.62 to the commissions paid to consignees that qualify as wholesale purchaser-resellers. In that regard, the Interpretation stated:

10 CFR § 210.62 is a general regulation concerning "purchasers of an allocated product" and does not govern the consignee-agent relationships which are the subject of this interpretation * * *.

Id. at 31145. Accordingly, the provisions of § 210.62 do not apply to the amendments under consideration which alter the method for computing the commissions paid by suppliers to wholesale purchaser-resellers that receive on a consignment basis allocated products which they deliver to actual purchasers.[6]

Based on the foregoing, Blue Flame is obligated to continue supplying the 12 consignees that qualify as wholesale purchaser-resellers with their allocations of propane in accordance with the Mandatory Petroleum Allocation Regulations. However, since these consignees fail to purchase or take title to the propane which they deliver, § 210.62 does not prohibit a change in the method by which their commissions are calculated.

Issued in Washington, D.C. on April 2, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979–7

To: Gulf Oil Corporation, Mobil Oil Corporation

Rule Interpreted: 10 CFR 212.83(c)(2)(iii)(E).

Code: GCW–PI—Refiner Price Formula, "N" Factor, Non-product Cost Increases.

Facts

The Mobil Oil Corporation (Mobil) and the Gulf Oil Corporation (Gulf) are refiners of covered products as those terms are defined in 10 CFR 212.31. Mobil and Gulf are therefore subject to the provisions of Subpart E of the Mandatory Petroleum Price Regulations. 10 CFR 212.81 *et seq.* Accordingly, in determining the maximum prices that they may lawfully charge for covered products to any class of purchaser, Mobil and Gulf must calculate their increased marketing costs pursuant to the provisions of § 212.83(c)(2)(iii)(E).

Issue

Do the provisions of § 212.83 (c)(2)(iii) (E), which govern the computation of increased non-product costs, permit a refiner to calculate the "marketing cost increase" as the difference between the *per-unit* cost of marketing covered products in the month of measurement and the *per-unit* cost of marketing covered products in the month of May 1973?

Interpretation

The Mandatory Petroleum Price Regulations require refiners to calculate the "marketing cost increase" by computing the difference between the total cost of marketing covered products in the month of measurement and the total cost of marketing covered products in the month of May 1973. The regulations do not permit this calculation to be made on a per-unit basis, whether for each unit of refinery output or for each unit of sales volume.

The formulae that refiners are required to use to calculate the maximum allowable price for each covered product are set forth in § 212.83(c)(2). The "N" factor in those formulae is used to compute increases in non-product cost. 10 CFR 212.83(c)(2)(iii)(E). Marketing cost increases, the F_i^t factor, constitue an element of the overall non-product cost calculation. The F_i^t factor is currently defined as:

F_i^t = the marketing cost increase and is the difference between *the cost of marketing covered products* in the month of measurement and the cost of marketing covered products in the month of May, 1973. "Cost of marketing covered products" means the costs attributable to marketing operations with respect to covered products provided that such costs are included only to the extent that they are so attributable under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices, in computing increased product costs, or in computing other increased non-product costs. (Emphasis added.)

10 CFR 212.83(c)(iii)(E).

A full understanding of the calculation of marketing cost increases requires a review of the history of the"F_i^t"factor. Effective December 1, 1974, the Federal Energy Administration (FEA), a predecessor agency of the Department of Energy, amended the Mandatory Petroleum Price Regulations to define more specifically the categories of non-product cost increases that a refiner is permitted to pass through in prices of covered products. 10 CFR 212.87, 39 FR 42368 (December 5, 1974). Marketing costs were considered to be permissible cost for passthrough purposes and were to be multiplied by a volumetric factor [1] to yield increased non-product costs attributable to those products covered by the Mandatory Petroleum Price Regulations.

However, on August 29, 1975, the FEA amended this provision of the price regulations effective December 1, 1974. 40 FR 39849 (August 29, 1975). As a result, increases in marketing costs were no longer expressly subject to the "V" factor in the formula for "N" used to compute total increased non-product costs. In the preamble FEA explained:

[B]ecause § 212.87(c)(4) defines marketing cost increases as the difference in the marketing costs of only *covered products* in the month of measurement and May 1973, only the increased marketing cost of covered products is calculated. Consequently, there is no need to subsequently multiply this amount by the volume factor of § 212.87(b)(1), since this results in the increased marketing costs attributable to non-covered products being deducted twice. Accordingly, by rewording § 212.87(b) so that "marketing cost increases" are not multiplied by the volume factor, "$V''_i{}^u/V^u$ the marketing cost increases attributable to non-covered products are deducted only once. (Emphasis in original.)

The FEA subsequently deleted all of § 212.87 and incorporated it into § 212.83, effective February 1, 1976. 41 FR 15330 (April 12, 1976). At that time, the FEA required computation of increased marketing costs pursuant to the "F_i^t" factor. The "F_i^t" factor is the element of the formula set forth in the "N" factor, which is used in computing total increased non-product costs. All other categories of non-product cost increases are computed pursuant to the "E" factor of this formula. The preamble to this amendment clearly specified that "F_i^t" was to be computed separately from all other non-product cost categories, according to product type, and therefore would not be subject to the $'V_i^n/V^{n0}$ volumetric allocation factor, which operates on the "E" factor of the formula and therefore on all ono/Product cost categories except marketing cost increase. The present definition of the "F_i^t"factor, as well as the accompanying limitations on the amount of increased marketing costs for each covered product that may be applied to compute maximum allowable prices, has been in effect since February 1, 1976. Under these circumstances, Mobil's and Gulf's arguments that they were confused as to the proper method for calculating increased marketing costs are not persuasive.[2]

[5] Although this Interpretation refers to the petitioners as "consignee-agents," it had been previously determined that these consignees qualified as wholesale purchaser-resellers in *National Association of Texaco Consignees, Inc.*, Interpretation 1975–19, 42 FR 23736 (May 10, 1977).

[6] It should be noted that this Interpretation, and *R.C. Fresh* apply only to the facts and issues presented in each of them. Thus these Interpretations represent our determination that § 210.62 does not apply to the commissions paid to consignees that qualify as wholesale purchaser-resellers. The Interpretations do not address the application of that regulation to other aspects of the supplier/purchaser relationship established between Blue Flame and the 12 consignees.

[1] The "V" factor appeared as "$V''_i{}^s/V^s$" in 10 CFR 212.87(b), 39 FR 42373 (December 5, 1974). The FEA amended this volumetric factor effective April 1, 1975, and it appeared as "$V''_i{}^u/V^u$".40 FR 10449 (March 6, 1975).

[2] Mobil and Gulf allege confusion as to the proper method of calculating increased marketing costs. As the source of this confusion they refer to the January 19, 1977, preamble adopting amendments to the "E" factor of § 212.83(c)(2)(iii)(E) (the total increased non-product costs, excluding marketing costs) which stated that "the amount of increase in each category of non-product cost shall be computed by determining the difference between the amount of that cost in the month of measurement *per unit* of refinery output and the amount of that cost in May

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This conclusion is not altered by the fact that the regulatory limitations on the amounts of marketing cost increase that may be passed through as a portion of total increased non-product costs for various covered products are expressed in terms of cents per gallon. Subsequent limitations on the calculation of total increased marketing costs do not alter the clear language of the marketing cost increase definition, which requires the simple subtraction of the cost of marketing covered products in the month of May 1978 from the cost of marketing covered products in the month of measurement.

However, for the purpose of computing total increases in marketing costs according to product type, refiners must attribute marketing cost increases ("F") in the month fo measurement ("t") to a covered product ("i").[3] An initial accounting allocation between increased marketing costs attributable to non-petroleum products and those attributable to petroleum products may be accomplished by any reasonable method so long as the method selected is one that has been historically and consistently applied by the refiner, is a generally accepted accounting procedure, and accurately accounts for attributable marketing cost increases. A refiner may choose to use a sales dollar basis to perform this accounting allocation because it would be meaningless to add volumes of petroleum products and "volumes" of non-petroleum products (such as automotive tires). Thus, sales dollars provide a common denominator for allocating marketing cost increases between petroleum and non-petroleum products. Allocation of costs between covered and non-covered petroluem products may be made on the basis of volume or sales dollars, so long as the method selected is one that has been historically and consistently applied by the refiner, is a generally accepted accounting procedure and accurately accounts for attributable marketing cost increases.

In summary, from December 1, 1974, to the present, the regulations governing the computation of total increased non-product costs have required that refiners calculate increases in marketing costs by computing the difference between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May 1973. To determine "the cost of covered products" refiners may use sales dollar comparisons or any other reasonable method that they have historically and consistently applied in order to distinguish accurately between costs of petroleum and non-petroleum products and between costs of covered and non-covered products.

Accordingly, the regulations relating to marketing cost (F_i^t) do not permit the use of marketing cost increases calculated on the basis of units of refinery output or sales volume for the purpose of determining a refiner's total increased non-product costs under Subpart E.

Issued in Washington, D.C., April 10, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Appendix B—*Cases Dismissed*

File No. and Requestor	Category	Date dismissed
A-266 Ethyl Corp	Price	April 10.
A-335 M. T. Stallter	Price	April 25.
A-386 The Termo Co	Price	April 24.

[FR Doc. 79-15662 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 78-WE-26-AD; Amdt. 39-3472]

McDonnell Douglas Model DC-9 Series and Military C-9 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection, rework, and replacement, as necessary, of the forward passenger entry door lock mechanism crank assembly on certain McDonnell Douglas DC-9 airplanes. This AD is necessary to preclude possible failure of the crank assembly that could result in jamming of the full passenger door locking mechanism and prevent the door from being opened.

DATES: Effective June 20, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attn: Director of Publications and Training, C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351).

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring a one time inspection, and rework or replacement, as necessary, of the forward passenger door lock mechanism crank assembly on McDonnell Douglas Model DC-9 airplanes was published in the Federal Register at 44 FR 5149. The proposal was prompted by reports of cracks in the forward passenger entry door locking mechanism crank assembly on McDonnell Douglas DC-9 airplanes, which, if allowed to go undetected, could result in failure of the crank assembly and subsequent jamming of the locking mechanism which could prevent the door from being opened.

Interested persons have been afforded an opportunity to participate in the making of this amemdment, and due consideration has been given to all comments received in response to this notice.

Several commenters recommended that the proposed 1,500 landing compliance time be increased to permit the inspection during a major maintenance check. The FAA has considered the various recommendations and has determined that the 1,500 landing compliance time can be extended without an adverse effect on safety. The rule as adopted, therefore, provides for an inspection compliance time of 3,500 landings.

One commenter questioned the need for reworking the crank assembly parts if the assembly can be properly adjusted during rigging of the locking mechanism. The FAA concurs and the AD as adopted provides for reinstallation of an unmodified part.

One commenter recommended that the AD apply only to those operators who had reworked the crank assembly part(s) in a manner other than that specified in Service Bulletin 52-111, and that relief be given to those operators who have been performing an appropriate inspection of the locking mechanism and crank assembly. The FAA agrees in part with this recommendation. Although some operators may have reworked the part(s) other than as specified in the

Footnotes continued from last page

1973 *per unit* of refinery output * * * ." (Emphasis added.) 42 FR 5023 (January 27, 1977). However, because the amendments adopted to effect this change use a per-unit calculation which operates on the "E" factor (and not the "F_i" factor), and because the definition of the "E" factor itself excludes marketing cost increase, it is clear that these amendments were directed solely towards refining costs and did not deal with marketing costs.

[3] The time period referenced by the superscript "t" is the month of measurement (month preceding the current month). The type of covered products is referenced by the subscript "i".

Service Bulletin 52–111 with the result that an unserrated part was riding on an unserrated surface of the mating part, it is possible that this condition may exist on other DC–9 airplanes and can only be detected by inspection. However, the AD as adopted provides relief for those operators who have conducted inspections per Service Bulletin 52–111 or equivalent inspections.

One commenter noted that this type of failure was an isolated case and the failure was caused by a load in excess of those imposed on the handle during structural substantiation tests conducted by the manufacturer, and therefore, the AD is inappropriate. The FAA agrees in part with these comments; the particular type of failure and subsequent jamming of the door is considered an isolated case however, the FAA continues to believe this general failure could occur in other products of the same type design. The tests referenced in the commenter's discussion were conducted on a new part, and the failed part had evidence of a crack approximately 30% through the root of the serration, prior to the overload that caused the failure. Although this overload was in excess of the handle rigging load, it was determined to be approximately one-third of the test load. If the cracks were allowed to go undetected, it is possible that the strength of the crank assembly could be reduced to a level at which a load approaching that of the rigging load could fail the part and jam the door locking mechanism.

The commenter also stated that there are from five to seven emergency exits on all DC–9 airplanes depending on model and configuration, and that the DC–9 has been demonstrated to have an evacuation capability with only three of the seven or two of the five exits in use. In addition, it was stated that the forward passenger door is used regularly and any malfunction of the door would, in all likelihood, be detected during normal use instead of during one of the infrequent emergency evacuations. The FAA Regulations require all exits on both sides to be available for use during any emergency. In addition, the FAA does not agree that a malfunctioning door would always be detected during normal use. In order to maintain the redundancy of exits and have all exits available and operational during an emergency evacuation, any known defect which would render an exist unusable must be corrected.

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:

McDonnell Douglas applies to DC–9 Series and Military C–9 Series airplanes, certificated in all categories.

Compliance is required as indicated.

To detect fatigue cracks in the forward passenger entry door lock mechanism crank assembly parts, P/N 4918613–3 (crank) and P/N 4918613–5 (clevis) accomplish the following:

(a) Within the next 3,500 landings after the effective date of this AD, or before accumulating 22,500 total landings whichever occurs later, comply with the applicable program of inspections and/or corrective actions in accordance with paragraphs (b) and (c) below:

(b) Prior to disassembly, visually inspect the crank assembly P/N 4918613–1 for proper engagement of serrations. If the serrations of the -3 and/or -5 parts are observed to be riding on the unserrated surface of the mating -3 and/or -5 parts, replace both parts per the requirements of paragraph (C)(1)(i) and/or (C)(1)(ii) and/or (C)(1)(iii) of this AD.

(c) If visual inspection of the P/N 4918613–1 crank assembly shows proper engagement of serrations, perform the dye penetrant inspections on the crank assembly parts, P/N 4918613–3 (crank) and P/N 4918613–5 (clevis), in accordance with instructions in Paragraph 2 of McDonnell Douglas DC–9 Service Bulletin 52–111, dated November 15, 1978.

(1) If a crack(s) is found in the –3 crank and/or the –5 clevis or there is evidence, (abrasion, etc.), that a serrated part was riding on an unserrated surface of the mating face, before further flight:

(i) Replace the part(s) with an unmodified –3 crank and/or –5 clevis; or,

(ii) Replace the part(s) with a –3 crank and/or a –5 clevis modified in accordance with instructions of McDonnell Douglas DC–9 Service Bulletin 52–111, dated November 15, 1978; or,

(iii) Replace the cracked part(s) with a new crank, P/N 4918613–11, and/or a new clevis, P/N 4918613–13, in accordance with the instructions in the McDonnell Douglas DC–9 Service Bulletin 52–111, dated November 15, 1978.

Note.—Any combination of parts listed in subparagraphs (i), (ii) and (iii) is acceptable.

(2) If no cracks are found and there is no evidence of a serrated part riding on the unserrated surface of the mating face;

(i) Reinstall the part; or,

(ii) Replace the part(s) per (C)(1)(i) and/or (C)(1)(ii) and/or (C)(1)(iii) above.

(d) Reinstallation and/or replacement of parts in accordance with paragraphs (b), (c)(1) and (c)(2) constitutes terminating action for this AD.

(e) Operators who have accomplished the objective of this AD prior to the effective date of this AD in a manner approved by the Chief, Aircraft Engineering Division, FAA Western Region are exempt from the provisions of this AD.

(f) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and modifications required by this AD.

(h) For the purpose of complying with this AD, subject to the acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hour's time in service by the operator's fleet average time from takeoff to landings for the airplane type.

(i) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the inspection interval specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective June 20, 1979.

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

Issued in Los Angeles, California on May 7, 1979.

Leon C. Daugherty,

Director, FAA Western Region.

[FR Doc. 79–15467 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 79–CE–9–AD; Amendment 39–3475]

Cessna 140A, 150, A150, 170, 172, R172, 175, P172, 177, 180, 182, 185/A185, 188/A188, 205, 206, U206/TU206, P206/TP206, 207/T207, 210/T210, 336, and 337/T337 Series Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, supersedure of existing Airworthiness Directive.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD), applicable to the above Cessna Series airplanes, which supersedes AD 78–26–09, Amendment 39–3379, (43 FR 60140, 60140, 60141). The new AD revises, clarifies and adds provisions resulting from field comments and FAA investigations and action subsequent to the issuance of AD 78–26–09. It requires installation of vented fuel caps or modifications of existing fuel caps to provide alternate fuel tank venting. This action is necessary because there have been several instances of fuel tank vent system obstruction by foreign material and/or sticking of the fuel vent valve in

the existing fuel tank vent system. These have caused loss of engine power and resulted in aircraft accidents.

EFFECTIVE DATE: May 29, 1979.

COMPLIANCE TIME: Within 100 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Service Letters No. SE77–6, dated March 4, 1977, and ME78–47 (Rev #1), dated February 12, 1979, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201. Copies of the service instructions cited above are contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591, and at the Office of the Regional Counsel, Room 1558, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Donald L. Page, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–3446.

SUPPLEMENTARY INFORMATION: On December 26, 1978, the FAA issued AD 78–26–09, Amendment 39–3379 (43 FR 60140, 60141), applicable to certain Cessna Series Airplanes. AD 78–26–09, which became effective January 30, 1979, required installation of vented fuel caps with related adapters and placards, as necessary, in accordance with Cessna Service Letter SE77–6 dated March 4, 1977. Subsequent to the issuance of AD 78–26–09 field comments, FAA investigation, approval of equivalent methods of compliance and release of additional manufacturer's service information have established a need for supersedure of this AD. Specifically, it is necessary to take the following actions: (1) revise the applicability statement to include serial numbers erroneously omitted and to make serial numbers listed consistent with those on the data plates of the affected airplanes; (2) expand the lead-in paragraph of the AD so that the reason for its issuance is more fully explained; (3) add the words "fuel servicing" before the word "placards" in Paragraph A of the AD in order to clarify the placards required; (4) in Paragraph A of the AD, add reference to Cessna Service Letter ME78–47 (Rev #1) dated February 12, 1979, to reflect approval of later improved vented fuel caps on Cessna Models 336 and 337/T337 airplanes; (5) list in Paragraph A of this AD, two presently approved means of compliance, STCs SA728NW and SA2976SW, as alternates to the presently required fuel cap replacements; (6) add a note following Paragraph A of the AD setting forth instructions pertinent to aircraft having two filler caps in each fuel tank; (7) add a new Paragraph B to the AD which permits the owner/operator authorized to perform preventive maintenance under FAR 43 to accomplish the AD where only installation of a different fuel tank cap is required (8) redesignate Paragraph B of the AD to Paragraph C and include therein the mailing address of the Chief, Engineering & Manufacturing Branch, FAA, Central Region; and (9) add a note following Paragraph C of the AD which sets forth identifying information pertaining to the two STC holders and service letters set forth in Paragraph A of the AD.

Due to the numerous changes set forth herein, the FAA has decied to supersede AD 78–26–09 with a new AD applicable to certain serial numbers of Cessna 140A, 150, A150, 170, 172, R172, 175, P172, 177, 180, 182, 185/A185, 188/A188, 205, 206, U206/TU206, P206/TP206, 207/T207, 210/T210, 336 and 337/T337 series airplanes. The new AD, by incorporating these changes, makes additional information respecting compliance with the AD avaiable to the public.

Since these changes are in part either clarifying or relieving in nature and since a situation exists that requires expeditious 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, and pursuant to the authority delegated to me by the Administrator, Sec. 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Cessna. Applies to the following series and serial number airplanes certified in all catergories:

Series and Serial Numbers

140A—15200 through 15724
150—617; 628; 649; 17001 through 17999; 59001 through 59018; 15059019 through 15077005
A150—15064970; A1500001 through A1500609
170—609; 18729 through 27169
172—610; 612; 615; 622; 625; 630; 638; 28000 through 29999; 36000 through 36999; 46001 through 47746; 17247747 through 17265684
175—619; 28700A; 55001 through 56777; 17556778 through 17557119
P172—P17257120 through P17257188
R172—P17227189; R1720001 through R1720617
177—661; 17700001 through 17701471; 17701473 through 17701597
180—604; 624; 645; 30000 through 32999; 50001 through 50911; 18050912 through 18052202
182—613; 631; 634; 33000 through 34999; 51001 through 53007; 18253008 through 18260638
185/A185—632; 185–0001 through 185–1599; 18501600 through 18501896
188/A188—With wing tanks; serials; 653; 188–0446 through 188–0572; 18800573 through 18800762
205—641; 205–0001 through 205–0577
206—206–0001 through 206–0275
U206/TU206—U206–0276 through U206–1444; U20601445 through U20601666
P206/TP206—P206–0001 through P206–0603; P20600604 through P20600647
207/T207—20700001 through 20700203
210/T210—616; 618; 57001 through 57575; 21057576 through 21059361; T210–0001 through T210–0454
336—336–0001 through 336–0195
337/T337—337–0001 through 337–1193; 33701194 through 33701405

Compliance: Required as indicated unless already accomplished.

To provide an alternate source of fuel tank venting in case of fuel tank vent obstruction by foreign material and/or sticking of the fuel tank vent valve, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Install applicable vented fuel cap(s) with related adapters and fuel servicing placards in accordance with Cessna Service Letter SE 77–6 dated March 4, 1977, or alternatively for 336 and 337/T337 series airplanes in accordance with Cessna Service Letter ME 78–47 (Rev #1) dated February 12, 1979, or as an equivalent, modify existing fuel tank caps in accordance with STC SA728NW or STC SA2976SW, if applicable.

Note.—On those airplanes having two fuel tank caps in each fuel tank, install only one vented cap in each tank in the outboard filler opening.

(B) The modification required by this AD may be accomplished by those owner/operators authorized to perform preventive maintenance under FAR 43 provided only installation of a different fuel tank cap is necessary. The person accomplishing this modification should make an entry in the aircraft maintenance record indicating compliance with this AD; i.e., "AD 79– – complied with by installing replacement fuel filler cap, Cessna P/N ——— this date ———,

Signature ———.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, ACE–210, FAA, Central Region, 601 E. 12th Street, Kansas City, Missouri 64106.

Note.—Supplemental Type Certificate SA728NW is held by Mr. Dennis H. Ward, Venting Engineering, 5420 A Street, Tacoma, Washington 98408, Phone 206–474–6458. Supplemental Type Certificate SA2976SW is held by Mr. Charles M. Seibel, Flight Bonus Inc., P.O. Box 665, Hurst, Texas 76053, Phone 817–265–1650. Copies of Cessna Service Letters SE 77–6 dated March 4, 1977, and ME 78–47 (Rev #1) dated February 12, 1979, may be obtained from Cessna Aircraft Company, Marketing Division, Attn: Customer Service Department, Wichita, Kansas 67201.

This AD supersedes AD 78-26-09, Amendment 39-3379 (43 FR 60140, 60141).

This Amendment becomes effective May 29, 1979.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri; telephone (816) 374-3446.

Issued in Kansas City, Missouri on May 11, 1979.

C. R. Melugin, Jr.,

Director, Central Region.

[FR Doc. 79-15468 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NW-1-AD Amdt. 39-3474]

Boeing Models 707-300/-400/-300B/-300C Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment requires inspection to the Boeing Models 707-300/-400/-300B/-300C aircraft to detect stress corrosion cracks in the rear spar upper and lower chords of the horizontal stabilizer. Cracked chords could result in a safety of flight problem if they are not repaired.

DATES: Effective date June 25, 1979.

ADDRESSES: Boeing Service Bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, P.E., Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION:

History

Recent inspections of Boeing 707-300 aircraft have detected spanwise stress corrosion cracks in the vertical leg of the upper and lower chord of the horizontal stabilizer rear spar. The cracks are located along a rivet line and at the tangent of the radius and have been found as far outboard as stabilizer Sta 265 and inboard to stabilizer Sta 96. To date, cracks have been found on 50% of the aircraft inspected. If cracks are allowed to go unrepaired, they could coalesce resulting in the structural capability of the outer portion of the horizontal stabilizer being compromised. This amendment is based on a Notice of Proposed Rulemaking (NPRM), (44 FR 6929, February 5, 1979). It was proposed that an Airworthiness Directive (AD) be issued, which would require repetitive inspection, and repair as necessary, of the vertical flange of the rear spar upper and lower chords. The NPRM would require an inspection of the stabilizer chords within six months of the AD's effective date, and thereafter at 18 month intervals until terminating modification action per Boeing Service Bulletin 3356 is accomplished.

Public Participation

All interested persons have been given an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. The Boeing Commercial Airplane Company commented, and the Air Transport Association of America (ATA) commented on behalf of the principal U.S. 707-300/-400 operators. ATA also transmitted comments it had received on the proposal from foreign operators. At a joint operators/FAA/Manufacturers meeting held on March 13, 1979, the ATA requested the deadline for comments be extended from March 15, 1979, to April 9, 1979, to permit the submittal of additional economic data by the operators, and an evaluation thereof by the FAA. In 44 FR 19205, April 2, 1979, the comment period was so extended.

Discussion of Comments

The commentators agree that an inspection and rework of the horizontal stabilizer is necessary but they disagree with the initial inspection time of six months from the AD's effective date. Both the manufacturer and the ATA pointed out that, to date, only small cracks have been found which do not compromise the failsafe capability of the stabilizer. It is believed that the cracks have been in existence for many years without detrimental effect and it is doubtful that new ones will be formed in the future. The FAA agrees that the stress corrosion cracks which have been found are primarily the result of manufacturing techniques and have existed for many years. There has been no evidence of fatigue growth, and cracks are in a direction which do not induce fatigue cracking. Since the airlines are currently engaged in an extensive rework of the horizontal stabilizer in accordance with AD 79-01-06 (44 FR 2363, January 11, 1979), they propose that the initial compliance deadline be extended to December 31, 1980 and that, in lieu of inspection, all stabilizers be modified by then, which is coincidental with the terminating action required by AD 79-01-06.

Conclusions

As the commentators pointed out, AD 79-01-06 requires extensive rework of the horizontal stabilizer. That directive principally affects the inboard portion of the stabilizer, including the mid-chord, while the proposal considered herein deals primarily with the outboard portion of the upper and lower chords. However, both modifications require the disassembly of the stabilizer and if the compliance date were extended, as requested, both could be accomplished contemporaneously. Hence, at any given time between now and December 31, 1980, many stabilizers will be modified and the structural problems, as to them, eliminated. Service experience to date has shown that the largest continous crack found has been approximately eleven inches. Fail safety is not compromised until a crack is considerably longer. Such data, over a period extending back as much as ten years, adequately justifies granting the operators request.

After review of all comments, the FAA agrees that action on the horizontal stabilizer chords, with respect to stress corrosion cracks, can be taken, consistent with safety, coincidentally with the mandatory modification action required by AD 79-01-06, which affects the same aircraft structure. In place of inspection, the rule will require modification of the stabilizer but will provide for a compliance date contemporaneously with that established in the companion AD.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 3913) is amended by adding the following new Airworthiness Directive.

BOEING: Applies to all Boeing 707-300/-400/-300B/-300C airplanes noted in Boeing Service Bulletin 3356.

No later than December 31, 1980 modify the horizontal stabilizer in accordance with the terminating action specified in Boeing Service Bulletin 3356, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

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 Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(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 FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, May 10, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-15469 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-CE-8-AD; Amendment 39-3473]

Cessna Models 401, 401A, 401B, 402, 402A, 402B, 411, and 411A Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, supersedure of existing Airworthiness Directive.

SUMMARY: This amemdment adopts a new Airworthiness Directive (AD), applicable to all Cessna 401, 401A, 401B, 402, 402A, 402B, 411 and 411A airplanes, which supersedes AD 77-02-05. The new AD requires continuation of the repetitive inspections of certain areas of the wing as previously required by AD 77-02-05 and adds requirements for repetitive inspections of one newly defined area. Procedures for accomplishing all of the above inspections are contained in Cessna Multiengine Service Information Letter ME 79-16, dated April 2, 1979. This action, to be conducted in accordance with the above noted service letter, is required to detect fatigue cracks that may exist or develop in critical areas of the wing front spar lower cap on these model airplanes and assure repair or replacement of cracked components pursuant to instructions provided by the manufacturer.

EFFECTIVE DATE: May 25, 1979.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

ADDRESSES: Cessna Multiengine Service Information Letter ME 79-16 applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 6701; Telephone (316) 685-9111. A copy of the service letter is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Abbott, Aerospace Engineer, Engineering and Manufacturing District Office Number 43, Room 238, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION: Amendment 39-2815 (39 FR 20784), AD 77-02-05, published in the Federal Register on January 24, 1977, currently requires repetitive eddy current inspections of certain portions of the wing front spar lower cap on all Cessna Model 401, 402, and 411 series airplanes. The inspections, to be accomplished in accordance with Cessna Service Letter ME 76-19, were required to detect fatigue cracks that may have developed in critical areas of the cap and assure the repair or replacement of cracked components pursuant to instructions provided by the manufacturer.

Inspection procedures provided by Service Letter ME 76-19 identified the three areas to be inspected as Areas A, B and C. Inspections for each of these areas on Models 401 and 402 were required within 200 hours' time-in-service on aircraft with 10,800 or more, or upon accumulation of 11,000 hours' time-in-service and at each 1,000 hour's time-in-service interval thereafter. On Model 411 airplanes the initial inspection was required within 200 hours' time-in-service on aircraft with 8,800 or more hours' time-in-service or upon accumulation of 9,000 hours' time-in-service and at each 1,000 hours' time-in-service interval thereafter.

Subsequent to the issuance of AD 77-02-05 an inspection of a Model 402 airplane revealed a separation of the wing front spar lower cap at a location that was not included in those areas that were required to be inspected by AD 77-02-05. Following the manufacturer's investigation of this failure, it has isssued Multiengine Service Information Letter ME 79-16 which provides instructions needed to inspect portions of the lower cap not included in Service Letter ME 76-19. This new service letter continues to identify Inspection Areas A and B as the same locations that were previously identified and no changes have been made in the inspection procedure of these areas. Inspection Area C has been expanded in the new service letter, and procedures for inspecting the newly defined area have been revised from those previously identified.

In addition to the above identified change in the procedures for inspection, Cessna has also recommended that the initial inspection of all three areas be accomplished on Models 401 and 402 airplanes at 6,500 hours with repetitive inspections at 1,000-hour intervals thereafter for Areas A and B, and 400-hour inspection intervals thereafter for Area C. For the Model 411 airplane, Cessna recommends that the initial inspection be accomplished at 5,500 hours with the same intervals between inspections as proposed for the Model 401 and 402 airplanes.

The FAA believes that the latest incident of separation and the investigation of it has shown that sufficient justification exists for requiring the initial inspections of Areas A, B, and C to be accomplished at 6,500 hours' time-in-service on affected Models 401 and 402 airplanes, and at 5,500 hours' time-in-service on affected Model 411 airplanes, with repeated inspections on all affected airplanes at 1,000-hour (Areas A and B) and 400-hour (Area C) intervals thereafter.

Accordingly, FAA has decided to supersede AD 77-02-05 with a new AD applicable to Cessna 401, 401A, 401B, 402, 402A, 402B, 411, and 411A airplanes making compliance with Cessna Multiengine Service Information Letter ME 79-16 mandatory.

Since a situation exists that requires the expeditious 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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

CESSNA: Applies to Models 401, 401A, 401B, 402, 402A, 402B, 411 and 411A airplanes.
COMPLIANCE: Required as indicated, unless already accomplished.

To detect fatigue cracks in critical components of the wing structure, accomplish the following:

(A) On all 401, 401A, 401B, 402, 402A, and 402B airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 6,400 or more hours' time-in-service, or upon the accumulation of 6,500 hours' time-in-service for aircraft with less than 6,400 hours' time-in-service and at each 1,000 hours' time-in-service interval thereafter, and

On all 411 and 411A airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 5,400 or more hours' time-in-service or upon the accumulation of 5,500 hours' time-in-service, for aircraft with less than 5,400 hours' time-in-service and at each 1,000 hours' time-in-service interval thereafter:

Inspect areas of the front wing spar lower cap and wing front spar root attach fittings identified as Areas A and B in Figures 1 and 2 of Cessna Multiengine Service Information Letter ME 79-16 dated April 2, 1979, for fatigue cracks using eddy current inspection methods at six (6) locations along the wing front spar lower cap (3 locations on the right wing and 3 identical locations on the left wing) in accordance with Part 2 of the instruction provided in the Service Information Letter.

Note.—High frequency eddy current inspection is used for Areas A and B).

(B) On all 401, 401A, 401B, 402, 402A and 402B airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 6,400 or more hours' time-in-service, or upon the accumulation of 6,500 hours' time-in-service for aircraft with less than 6,400 hours' time-in-service and at each 400 hours' time-in-service interval thereafter, and

On all 411 and 411A airplanes within 100 hours' time-in-service after the effective date of this AD on aircraft with 5,400 or more hours' time-in-service or upon the accumulation of 5,500 hours' time-in-service for aircraft with less than 5,400 hours' time-in-service and at each 400 hours' time-in-service interval thereafter:

Inspect right and left front wing spar lower cap areas identified as Area C (crosshatched areas) in Figure 3 of Cessna Multiengine Service Information Letter ME 79-16 dated April 2, 1979, for fatigue cracks using eddy current inspection methods in accordance with Part 3 of the instructions provided in said Service Information Letter.

Note.—Low frequency eddy current inspection is used for Area C).

(C) If cracks are found as a result of any inspection performed pursuant to Paragraphs A and B of this AD, prior to further flight, contact Cessna Aircraft Corporation for repair or replacement instructions approved in accordance with its Delegation Option Authorization and satisfactorily perform said instructions.

(D) Inspection intervals set forth in Paragraphs A and B of this AD may be adjusted up to maximum intervals of 1,050 and 420 hours' time-in-service respectively to allow said inspections to be performed at regularly scheduled inspections or maintenance periods.

(E) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the inspections required by this AD can be performed.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Note.—Cessna Aircraft Company requests, in Part 4 of ME 79-16, reporting of the initial inspection results to their Customer Service Department. The FAA encourages mechanics and owner/operators to comply with this request to facilitate the manufacturer's monitoring of this inspection program.

This AD supersedes AD 77-02-05, Amendment 39-2815 (39 FR 20784).

This Amendment becomes effective May 25, 1979.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Lawrence S. Abbott, Aerospace Engineer, Engineering and Manufacturing Branch Office #43, Room 238, FAA, Central Region, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-4219.

Issued in Kansas City, Missouri, on May 10, 1979.

C. R. Melugin, Jr.

Director, Central Region.

[FR Doc. 79-15470 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-EA-21]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Restricted Area R-4001B, Aberdeen, Md., by reducing its time of designation and lowering its designated altitudes. An airspace review indicates that the usage of R-4001B can be modified consistent with using agency requirements. This action restores airspace to the public for greater periods of time than the current designation.

EFFECTIVE DATE: August 9, 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: The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to reduce the time of designation and altitudes of R-4001B from "Surface to unlimited 0700 to 2400 local time and surface to 10,000 feet MSL, 0000 to 0700 local time"; "higher altitudes by NOTAM issued 24 hours in advance" to "Surface to 10,000 feet MSL, higher altitudes by NOTAM issued 24 hours in advance." The time of designation is changed to "Intermittent, as activated by NOTAM 24 hours in advance." Since this action restores airspace for public use for greater periods of time than the current designation, the public has no particular reason to comment, therefore, notice and public procedure are considered unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.40 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 695) is amended, effective 0901 G.m.t., August 9, 1979, as follows:

Under R-4001B, Aberdeen, Md.

The title and text of Designated altitudes and Time of designation are revoked in their entirety and "Designated altitudes. Surface to 10,000 feet MSL, higher altitudes by NOTAM issued 24 hours in advance." and "Time of designation. Intermittent, as activated by NOTAM 24 hours in advance." are substituted therefor.

(Secs. 307(a) and 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 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as

implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15712 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-NE-4]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Restricted Area R-4105, No Man's Land Island, Mass., by reducing its time of designation. This action reduces the burden on the public by restoring heretofore restricted airspace for public use on a more frequent basis. The results of a review of the restricted area indicated that a change in operation hours would reflect current and planned usage of the restricted area airspace.

EFFECTIVE DATE: June 20, 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: The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to reduce the time of designation for R-4105 from "0700 to 2400 EST" to "Sunrise to sunset, other times by NOTAM at least 48 hours in advance." This action is taken because a review of the restricted area indicated that a change in operation hours could be effected to meet current and planned usage of the airspace. Since this action restores airspace for public use on a more frequent basis and reduces the burden on the public, there is no particular reason for the public to comment. Therefore, notice and public procedure are unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.41 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 697) is amended, effective as follows:

Under R-4105, No Man's Land Island, Mass.

Time of designation. "0700 to 2400 EST" is deleted and "Sunrise to sunset, other times by NOTAM at least 48 hours in advance." is substituted therefor.

(Secs. 307(a) and 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 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15713 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 19156; Amdt. No. 95-285]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory change and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

[Secs. 307 and 110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations.

the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on May 14, 1979.

James M. Vines,

Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

§95.48 GREEN FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Mordi INT, Alas.	Cold Bay, Alas. NDB	6000
(HF Communication required 6000 to 8000)		

§95.1001 DIRECT ROUTES–U.S.
is amended by adding:

FROM	TO	MEA
Meridian, Miss. VORTAC	Nashville, Tenn. VORTAC	24000
		MAA–45000
San Louis Obispo, Calif. VOR	Fellows, Calif. VOR	6400
San Louis Obispo, Calif. VOR	Bakersfield, Calif. VOR	6000
Fellows, Calif. VOR	Sant Marie, Calif. VOR	7000
Fellows, Calif. VOR	Gaviota, Calif. VOR	8000
Fellows, Calif. VOR	Gorman, Calif. VOR	11000
Fellows, Calif. VOR	Bakersfield, Calif. VOR	6400
Fellows, Calif. VOR	Santa Barbara, Calif. VOR	8600
INT. 241 M rad Parkersburg VOR & 160 M rad Zanesville VOR *2500–MOCA	INT 160 M rad Zanesville VOR &240 M rad Bellaire VOR	*3000
INT, 160 M Rad Zanesville VOR & 240 M Rad Bellaire VOR *2500–MOCA	Bellaire, Ohio VOR	*3000
INT. 042 M rad Ardmore VOR 172 M rad Tulsa VOR *2800–MOCA	Tulsa, Okla. VOR	*7000

§95.1001 DIRECT ROUTES–U.S.
is amended to delete:

FROM	TO	MEA
Flint, Mich. VOR	St. Johns INT, Mich.	2600
Wellington INT, Kans. *2400–MOCA	Ponca City, Okla. VOR	*2800
Wichita, Kans. VOR *2600–MOCA	Wellington INT, Kans.	*2900
Bruce, Ga. NDB	Floyd, Ga. NDB	3100
Sugarloaf MTN. N.C. VOR *6100–MOCA	Liberty, N.C. VOR	*7000
Bahama Routes		
V62 is amended by adding		
Freeport, Bh. VOR.	Jakel INT, Bh.	2000
Jakel INT, Bh. *1200–MOCA	Angee INT, Bh.	*3000
Angee INT, Bh.	Vero Beach, Fla. VOR	2000
Panama Routes		
UG4 is amended by adding		
Taboga Island, R.P. NDB	Arnal INT, R.P.	18000
		MAA–45000
UB8 is amended by adding		
Taboga Island, R.P. NDB	Duxun INT, R.P.	18000
		MAA–45000
UB10 is amended by adding		
Taboga Island, R.P. NDB	Colby INT, R.P.	18000
		MAA–45000
UB11 is amended by adding		
Taboga Island, R.P. NDB	Kasor INT, R.P.	18000
		MAA–45000

§95.6004 VOR FEDERAL AIRWAY 4
is amended to read in part:

FROM	TO	MEA
Westfall INT, Kans. *2800–MOCA	Salina, Kans. VOR	*4000
Hill City, Kans. VOR Via S alter. *3900–MOCA	Hays, Kans. VOR Via S. alter.	*4500
Hays, Kans VOR Via S alter. *4000–MRA	*Glide INT, Kans. Via S alter.	3900
Glide INT, Kans. Via S alter. *2800–MOCA	Salina, Kans. VOR Via S alter.	*3600
Denver, Colo. VOR	Thurman, Colo. VOR	8000

§95.6006 VOR FEDERAL AIRWAY 6
is amended to read in part:

FROM	TO	MEA
Sidney, Neb. VOR	North Platte, Neb. VOR	6000

§95.6008 VOR FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Akron, Colo. VOR *5770–MOCA	Hayes Center, Neb. VOR	*6400
Hayes Center, Neb VOR Via S alter. *4100–MOCA	Sprit INT, Neb Via S alter.	*6000

§95.6010 VOR FEDERAL AIRWAY 10
is amended to read in part:

FROM	TO	MEA
Disks INT, Kans. Via N alter. *4000–MRA **3300–MOCA	*Steal INT, Kans. Via N alter.	**4500

§95.6012 VOR FEDERAL AIRWAY 12
is amended to read in part:

FROM	TO	MEA
Anthony, Kans. VOR *3400–MRA **2600–MOCA	*Miror INT, Kans.	**3300

§95.6016 VOR FEDERAL AIRWAY 16
is amended by adding:

FROM	TO	MEA
Los Angeles, Calif. VOR Via S alter	Seal Beach, Calif. VOR Via S alter	2500
Seal Beach, Calif. VOR via S alter	*March, Calif. VOR Via S alter	8000
*11200–MCA March VOR, SE–bound		
March, Calif. VOR Via S alter	Bands INT, Calif Via S alter	
	W-bound	8000
	E-bound	13000
Bands INT, Calif. Via S alter	Garne INT, Calif. Via S alter	13000
Garne INT, Calif. Via S alter	Palm Springs, Calif. VOR Via S alter	
	W-bound	12000
	E-bound	8000

§95.6035 VOR FEDERAL AIRWAY 35
is amended to delete:

FROM	TO	MEA
Albany, Ga. VOR	Stier INT, Ga.	2000
Via W Alter.	Via W alter.	
Stier INT, Ga.	Potar INT, Ga.	2300
Via W alter.	Via W alter.	
Potar INT, Ga.	Byroe INT, Ga.	*3000
Via W alter.	Via W alter.	
*2000–MOCA		
Byroe INT, Ga.	Macon, Ga. VOR	2000
Via W alter.	Via W alter.	

§95.6035 VOR FEDERAL AIRWAY 35
is amended to read in part:

FROM	TO	MEA
ST. Petersburg, Fla. VOR	Ended INT, Fla.	2500

§95.6071 VOR FEDERAL AIRWAY 71
is amended to read in part:

FROM	TO	MEA
Pawnee City, Neb. VOR	Lincoln, Neb VOR	3000

§95.6073 VOR FEDERAL AIRWAY 73
is amended to read in part:

FROM	TO	MEA
Fraks INT, Okla.	Wichita, Kans. VOR	3400

§95.6089 VOR FEDERAL AIRWAY 89
is amended to read in part:

FROM	TO	MEA
Albin INT, Wyo.	Scottsbluff, Neb. VOR	
Via E alter.	Via E alter.	7800

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

FROM	TO	MEA
Zeans DME Fix, Colo.	Powes INT, Colo.	16100
Powes INT, Colo.	*Gunnison, Colo. VOR	
	S-bound	16100
	N-bound	12500
*12500–MCA Gunnison VOR, S-bound		
*13000–MCA Gunnison VOR, NE-bound		
Gunnison, Colo. VOR	Baloo INT, Colo.	
	NE-bound	16200
	SW-bound	12000
Baloo INT, Colo.	Trees INT, Colo.	16200

§95.6112 VOR FEDERAL AIRWAY 112
is amended to read in part:

FROM	TO	MEA
The Dalles, Ore. VOR	*Loams INT, Ore.	5300
*6000–MRA		
Loams INT, Ore.	*Echod INT, Ore.	4000
*6000–MRA		
Echod INT, Ore.	Pendleton, Ore. VOR	4000

§95.6121 VOR FEDERAL AIRWAY 121
is amended to read in part:

FROM	TO	MEA
*Eugene, Ore. VOR	Cobur INT, Ore	
Via N alter	Via N alter	
	NE-bound	5000
	SW-bound	4400
*3300–MCA Eugene VOR, NE-bound		
Cobur INT, Ore.	Mobil INT, Ore.	
Via N alter	Via N alter	
	NE-bound	7000
	SW-bound	5200

§95.6122 VOR FEDERAL AIRWAY 122
is amended to read in part:

FROM	TO	MEA
Obrin INT, Ore.	*Apple INT, Ore	8000
*10000–MRA		
Apple INT, Ore.	Gnats DME Fix, Ore.	8000
Gnats DME Fix, Ore.	Medford, Ore. VOR	
	SW-bound	8000
	NE-bound	5500

§95.6132 VOR FEDERAL AIRWAY 132
is amended to read in part:

FROM	TO	MEA
Orion INT, Kans.	*Ranso INT, Kans.	**10000
*10000–MRA		
**3800–MOCA		
Ranso INT, Kans.	Disks INT, Kans.	*10000
*3500–MOCA		
Disks INT, Kans.	*Steal INT, Kans.	**4500
*4000–MRA		
**3300–MOCA		
Chanute, Kans. VOR	Walle INT, Kans.	2800
Walle INT, Kans.	Nashe INT, Mo.	2700

§95.6138 VOR FEDERAL AIRWAY 138
is amended to read in part:

FROM	TO	MEA
Grand Island, Kans.	Brady INT, Neb.	*3600
*3000–MOCA		
Brady INT, Neb.	Sewah INT, Neb.	*4000
*3100–MOCA		
Sewah INT, Neb.	Lincoln Neb. VOR	3200

§95.6148 VOR FEDERAL AIRWAY 148
is amended to read in part:

FROM	TO	MEA
Hayes Center, Neb. VOR	North Platte, Neb. VOR	*4900
*4400–MOCA		

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Blair INT, NEB	Decka INT, Neb.	
Via W alter	Via W alter	*3000
*3500–MRA		

§95.6160 VOR FEDERAL AIRWAY 160
is amended to delete:

FROM	TO	MEA
Denver, Colo. VOR	Rayme INT, Colo.	*8000
*7000–MOCA		

§95.6160 VOR FEDERAL AIRWAY 160
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Flots INT, Colo.	7500
Flots INT, Colo.	Keann INT, Colo.	8000
Keann INT, Colo.	Smity INT, Colo.	*9000
*7000–MOCA		
Smity INT, Colo	*Crikk INT, Colo.	11000
*11000–MCA Crikk INT, SW-bound		
Crikk INT, Colo.	Sidney, Neb. VOR	7000

§95.6162 VOR FEDERAL AIRWAY 162
is amended to read in part:

FROM	TO	MEA
Lucketts INT, Va.	Caris INT, Pa.	5000
Caris INT, Pa.	Harrisburg, Pa. VOR	4000

§95.6169 VOR FEDERAL AIRWAY 169
is amended by adding:

FROM	TO	MEA
Bismarck, N.D. VOR	Devils Lake, N.D. VOR	4000

§95.6169 VOR FEDERAL AIRWAY 169
is amended to read in part:

FROM	TO	MEA
Chadron, Neb. VOR	Wayside INT, VOR	6900

§95.6172 VOR FEDERAL AIRWAY 172
is amended to read in part:

FROM	TO	MEA
Wolbach, Neb. VOR	Columbus, Neb. VOR	*3800
*3300–MOCA		

§95.6181 VOR FEDERAL AIRWAY 181
is amended to read in part:

FROM	TO	MEA
Omaha, Neb. VOR	Kenar INT, Neb.	3500
Kenar INT, Neb.	Norfolk, Neb. VOR	*3500
*3000–MOCA		

§95.6207 VOR FEDERAL AIRWAY 207
is amended to read in part:

FROM	TO	MEA
Gill, Colo. VOR	Scottsbluff, Neb. VOR	7400

§95.6214 VOR FEDERAL AIRWAY 214
is amended to read in part:

FROM	TO	MEA
Wooly INT, Md.	Baltimore, Md VOR	2300

§95.6220 VOR FEDERAL AIRWAY 220
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Flots INT, Colo.	7500
Flots INT, Colo.	Keann INT, Colo.	8000
Keann INT, Colo.	Wiggi INT, Colo.	*9000
*7000–MOCA		

§95.6231 VOR FEDERAL AIRWAY 231
is amended to read in part:

FROM	TO	MEA
Salmon, Ida. VOR	Tuffy INt, Mont.	12000
Tuffy INT, Mont.	*Missoula, Mont. VOR	
	S-bound	12000
	N-bound	9000
*10000–MCA Missoula VOR, S-bound		

§95.6234 VOR FEDERAL AIRWAY 234
is amended to read in part:

FROM	TO	MEA
Liberal, Kans. VOR	Flack INT, Kans.	4600
Krier INT, Kans.	Byway INT, Kans.	*7100
*3700–MOCA		
Emporia, Kans. VOR	Butler, Mo. VOR	3000

§95.6244 VOR FEDERAL AIRWAY 244
is amended to read in part:

FROM	TO	MEA
Hays, Kans. VOR	*Glide INT, Kans.	3900
*4000–MRA		

§95.6247 VOR FEDERAL AIRWAY 247
is amended to read in part:

FROM	TO	MEA
Scottsbluff, Neb. VOR	Douglas, Wyo. VOR	8100

§95.6263 VOR FEDERAL AIRWAY 263
is amended to read in part:

FROM	TO	MEA
Hugo, Colo. VOR	Denver, Colo. VOR	8000

§95.6298 VOR FEDERAL AIRWAY 298
is amended by adding:

FROM	TO	MEA
*Seattle, Wash. VOR	Vamps INT, Wash	
	E-bound	8000
	W-bound	4000
*4300–MCA Seattle VOR, E-bound		
Vamps INT, Wash.	Rumor INT, Wash.	8000
Rumor INT, Wash.	Pertt INT, Wash.	*8000
*7500–MOCA		
Pertt INT, Wash.	Yakima, Wash. VOR	6500

§95.6313 VOR FEDERAL AIRWAY 313
is amended to read in part:

FROM	TO	MEA
Decatur, Ill. VOR	Pontiac, Ill. VOR	3000

§95.6316 VOR FEDERAL AIRWAY 316
is amended to read in part:

FROM	TO	MEA
Hermy INT, Mich	Marquette, Mich. VOR	*4000
*3100–MOCA		

§95.6362 VOR FEDERAL AIRWAY 362
is amended to read:

FROM	TO	MEA
Macon, Ga. VOR	Norcross, Ga. VOR	*5000
*3000–MOCA		

§95.6494 VOR FEDERAL AIRWAY 494
is amended to read in part:

FROM	TO	MEA
*Geter INT, Calif.	Santa Rosa, Calif VOR	4000
*7000–MRA		

§95.6516 VOR FEDERAL AIRWAY 516
is amended to read in part:

FROM	TO	MEA
Tyroe INT, Kans.	Oswego INT, Kans.	2700

§95.6536 VOR FEDERAL AIRWAY 536
is amended to read in part:

FROM	TO	MEA
Shedd INT, Ore	Lathe INT, Ore.	4000
Lathe INT, Ore.	*Trams INT, Ore.	6000
*8300–MCA Trams INT, E-bound		
Trams INT, Ore.	Monte INT, Ore.	*10000
*7800–MOCA		
Monte INT, Ore.	Redmond, Ore. VOR	10000

§95.7004 JET ROUTE NO. 4
is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Twentynine Palms, Calif. VORTAC	18000	45000

§95.7009 JET ROUTE NO. 9
is amended to delete:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000
Boulder City, Nev. VORTAC	Milford, Utah VORTAC	18000	45000

§95.7009 JET ROUTE NO. 9
is amended by adding:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Las Vegas, Nev. VORTAC	18000	45000
Las Vegas, Nev. VORTAC	Milford, Utah. VORTAC	18000	45000

§95.7076 JET ROUTE NO. 76
is amended to delete:

FROM	TO	MEA	MAA
Boulder City, Nev. VORTAC	Tuba City, Ariz. VORTAC	18000	45000

§95.7076 JET ROUTE NO. 76
is amended by adding:

FROM	TO	MEA	MAA
Las Vegas, Nev. VORTAC	Tuba City, Ariz. VORTAC	18000	45000

§95.7078 JET ROUTE NO. 78
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif, VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7078 JET ROUTE NO. 78
is amended by adding:

FROM	TO	MEA	MAA
Las Angeles, Calif. VORTAC	Seal Beach, Calif. VORTAC	18000	45000
Seal Beach, Calif. VORTAC	Thermal, Calif. VORTAC	18000	45000
Thermal, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7093 JET ROUTE NO. 93
amended to read

FROM	TO	MEA	MAA
U.S. Mexican Border	Julian, Calif. VORTAC	18000	45000
Julian, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Los Angeles, Calif. VORTAC	18000	45000

§95.7096 JET ROUTE NO. 96
is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Seal Beach, Calif. VORTAC	18000	45000
Seal Beach, Calif, VORTAC	Thermal, Calif. VORTAC	18000	45000
Thermal, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000
Parker, Calif. VORTAC	Prescott, Ariz. VORTAC	18000	45000
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	22000	45000

§95.7096 JET ROUTE NO. 96

is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000
Parker, Calif. VORTAC	Prescott, Ariz. VORTAC	18000	45000
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	18000	45000

§95.7100 JET ROUTE NO. 100

is amended to delete:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000
Boulder City, Nev. VORTAC	Bryce Canyon, Utah VORTAC	18000	45000

§95.7100 JET ROUTE NO. 100

is amended by adding:

FROM	TO	MEA	MAA
Daggett, Calif. VORTAC	Las Vegas, Nev. VORTAC	18000	45000
Las Vegas, Nev. VORTAC	Bryce Canyon, Utah VORTAC	18000	45000

§95.7104 JET ROUTE NO. 104

is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Twentynine Palms, Calif. VORTAC	18000	45000

§95.6107 JET ROUTE NO. 107

is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Daggett, Calif. VORTAC	18000	45000
Daggett, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000

§95.7107 JET ROUTE NO. 107

is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000
Hector, Calif. VORTAC	Boulder City, Nev. VORTAC	18000	45000

§95.6128 JET ROUTE NO. 128

is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000
Hector, Calif. VORTAC	Peach Springs, Calif. VORTAC	18000	45000

§95.7128 JET ROUTE NO. 128

is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Peach Springs, Calif. VORTAC	25000	45000

§956134 JET ROUTE NO.134

is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Twentynine Palms, Calf. VORTAC	18000	45000
Twentynine Palms, Calif. VORTAC	Choas INT, Ariz.	20000	45000
Choas INT, Ariz.	Winslow, Ariz. VORTAC	18000	45000
Winslow, Ariz, VORTAC	Gallup, N.M. VORTAC	18000	45000

§95.7134 JET ROUTE NO. 134

is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Seal Beach, Calif. VORTAC	18000	45000
Seal Beach, Calif, VORTAC	Thermal, Calif. VORTAC	18000	45000
Thermal, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000
Parker, Calif. VORTAC	Prescott, Ariz. VORTAC	18000	45000
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	18000	45000

§95.6146 JET ROUTE NO. 146

is amended to delete:

FROM	TO	MEA	MAA
Las Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000
Hector, Calif. VORTAC	Boulder City, Nev VORTAC	18000	45000
Boulder City, Nev. VORTAC	Dove Creek, Colo. VORTAC	#18000	45000

#MEA is established with a gap in navigation signal coverage

FROM	TO	MEA	MAA

is amended by adding:

§95.7146 JET ROUTE NO. 146

Los Angeles, Calif. VORTAC	Daggett, Calif. VORTAC	18000	45000
Daggett, Calif. VORTAC	Las Vegas, Nev. VORTAC	18000	45000
Las Vegas, Nev. VORTAC	Dove Creek, Colo. VORTAC	#19000	45000

#MEA is established with a gap in navigation signal coverage

§95.7154 JET ROUTE NO 154 is deleted:

§95.6164 JET ROUTE NO. 164 is deleted:

§95.7198 JET ROUTE NO 198 is amended to delete:

FROM	TO	MEA	MAA
Linden, Calif. VORTAC	Mina, Nev. VORTAC	23000	45000

§95.7200 JET ROUTE NO 200 is deleted:

2. By amending Sub-part D as follows:

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINT DISTANCE FROM	
J-96 is amended by adding:			
Prescott, Ariz. VORTAC	Gallup, N. Mex. VORTAC	77	Prescott
J-128 is amended by adding:			
Ontario, Calif. VORTAC	Peach Springs, Ariz. VORTAC	103	Ontario
J-134 is amended by adding:			
Prescott, Ariz. VORTAC	Gallups, N. Mex. VORTAC	77	Prescott

[FR Doc. 79-15466 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 373

Revision of the Distribution License Procedure and the List of Computer Consignee Countries

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

ACTION: Final rule.

SUMMARY: This revision amends controls to allow the export of more sophisticated computers to certain destinations under special license procedures. This revision is made in order to keep controls in step with rapidly advancing computer technology.

EFFECTIVE DATE: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Dale F. Snell, Jr., Chief, Management Services Branch, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202–377–2440).

SUPPLEMENTARY INFORMATION: It has been determined that this regulatory revision is "not significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instructions 1–6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

This revision amends the Distribution License procedure to permit exports of more complex computers to certain destinations, so that these computers may now be exported to approved consignees without the case-by-case review that has been required in the past.

This change is effected by dividing the Computer-Consignee Destinations that have been listed in Supplement No. 2 to Part 373 into two lists of countries and by footnoting the first computer entry in Supplement No. 1 to Part 373 to indicate which computers may be sent to the destinations in each list. A new footnote is added to both computer entries to indicate that computers related to nuclear activity may not be exported under the Distribution License procedure. These changes also apply to the Foreign-Based Warehouse procedure until that procedure is revoked on June 30, 1979.

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

1. Supplement No. 1 to Part 373 is amended as follows:

Supplement No. 1 to Part 373—Commodities Excluded From Certain Special License Procedures

* * * * *

1565[1,2] Electronic computers exceeding a CPU bus rate of 60 million bits per second or a processing data rate of 20 million bits per second.

1565[2,3] Other electronic computers, analog or digital (including digital differential analyzers).

2. Supplement No. 2 to Part 373 is revised to read as follows:

Supplement No. 2 to Part 373—Computer—Consignee Destinations (List A)

Note.—See Footnote No. 1 to entry number 1565 in Supp. No. 1 to Part 373 for computers that may be exported to countries listed below.

Australia, Belgium, Denmark, France, Germany, Federal Republic of, Greece, Iceland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Turkey, United Kingdom.

3. A new Supplement No. 3 to Part 373 is established as follows:

[1] Under the Distribution License procedure, electronic computers that do not exceed either a CPU bus rate of 500 million bits per second or a processing data rate of 225 million bits per second may be exported to approved consignees in destinations listed in Supplement No. 2 to Part 373. Electronic computers that do not exceed either a CPU bus rate of 200 million bits per second or a processing data rate of 60 million bits per second may be exported under the Distribution License procedure to approved consignees in destinations listed in Supplement No. 3 to Part 373.

This exception also applies to any device, apparatus or accessory that upgrades a computer within the limits defined above.

[2] Distribution licenses are not valid for the export of computers to ultimate consignees engaged directly or indirectly in any of the following activities—

(a) Designing, developing or fabricating nuclear weapons or nuclear explosive devices; or devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions;

(b) Designing, assisting in the design of, constructing, fabricating or operating facilities for the chemical processing of irradiated special nuclear material, for the production of heavy water, for the separation of isotopes of any source or special nuclear material, or specially designed for the fabrication of nuclear reactor fuel containing plutonium;

(c) Designing, assisting in the design of, constructing, fabricating or furnishing equipment or components specially designed, modified or adapted for use in such facilities; or

(d) Training personnel in any of the above activities.

[3] Excluded from Project License Procedure. Any device, apparatus or accessory that upgrades a computer within the limits set forth in the first 1565 entry or in footnote 1 above may be exported under the Distribution License procedure.

Supplement No. 3 to Part 373—Computer—Consignee Destinations (List B)

Note.—See Footnote No. 1 to entry number 1565 in Supp. No. 1 to Part 373 for computers that may be exported to countries listed below.

Afghanistan, Austria, Bahamas, The, Barbados, Benin, Bolivia, Botswana, Burundi, Cameroon, Central African Empire, Chad, Colombia, Congo, Costa Rica, Cyprus, Dominican Republic, Ecuador, El Salvador, Ethiopia, Fiji, Finland, Gabon, Gambia, The, Ghana, Grenada, Guatemala, Guinea-Bissau, Haiti, Honduras, Hong Kong, Indonesia, Iran, Ireland, Ivory Coast, Jamaica, Jordan, Kenya, Korea, Republic of, Lebanon, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Morocco, Nepal, Nicaragua, Nigeria, Panama, Paraguay, Peru, Philippines, Rwanda, San Marino, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Surinam, Swaziland, Sweden, Switzerland, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Upper Volta, Uruguay, Vatican City, Venezuela, Western Samoa, Yugoslavia, Zaire.

(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).)

Stanley J. Marcuss,

Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79–15721 Filed 5–16–79; 1:33 pm]

BILLING CODE: 3510–25–M

COMMODITY FUTURES TRADING COMMISSION

General Regulations Under the Commodity Exchange Act; Definition of "Proprietary Account"

17 CFR Part 1

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending the definition of the term "proprietary account" contained in Title 17, Chapter I, Part 1, § 1.3, paragraph (y) of the Code of Federal Regulations. The purpose of the amendment is to provide that the term shall mean a commodity futures account of which ten percent or more is owned by one, or of which an aggregate of ten percent or more is owned by more than one, of the persons listed in § 1.3(y). Under the Commission's present definition certain accounts, such as commodity pool accounts, which are even partly owned

by such persons are classified as proprietary rather than customer accounts, and, as a result, such accounts are denied the benefits and protections afforded customer accounts under the Commodity Exchange Act ("Act") and the Commission's regulations under that Act. The effect of the amendment is to narrow the definition of the term "proprietary account" under § 1.3(y) and thereby increase the number of accounts which are accounts of "customers" as defined in § 1.3(k) (17 CFR 1.3(k)) of the Commission's regulations.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Attorney, Office of the Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254–8955.

SUPPLEMENTARY INFORMATION: On December 5, 1978, the Commission published a proposed rule change (43 FR 56904) to amend the definition of "proprietary account" (17 CFR 1.3(y)). As the Commission stated at that time, the present definition of the term "proprietary account" was adopted by the Commission's predecessor, the Commodity Exchange Authority (39 FR 28618, August 9, 1974). The primary purpose of the proposed change was to narrow the definition of the term "proprietary account" under § 1.3(y) and thereby increase the number of accounts which are accounts of "customers" as defined in § 1.3(k) (17 CFR 1.3(k)) of the Commission's regulations.

All of the comments received in response to the proposed amendment favored its adoption on grounds similar to those stated by the Commission in its proposal to amend § 1.3(y).[1] Accordingly, the Commission has decided to adopt the amendment to § 1.3(y) in the same form in which it was proposed.

Purpose of the Amended Rule

Under § 1.3(k) the terms "customer" or "commodity customer" refer to a customer trading in any commodity (as defined in the Commission's regulations). Pursuant to this same section, however, an owner or holder of a proprietary account as defined in § 1.3(y) is not deemed to be a customer within the meaning of section 4d of the Act, the regulations that implement sections 4d and 4f of the Act, and § 1.35 of the Commission's regulations.[2] These provisions relate principally to certain requirements in four areas: (a) registration; (b) segregation; (c) record keeping; and (d) minimum financial. In each such area (with the exception of the minimum financial requirements), certain benefits and protections are afforded to customer accounts which are not afforded to proprietary accounts. By narrowing the definition of proprietary account to exclude those commodity accounts not significantly owned by one of the persons listed in § 1.3(y), owners of such accounts will no longer be excluded from the definition of "customer" contained in § 1.3(k) and will receive the benefits and protections which result from this classification.

Registration

Section 4d of the Act and § 1.7 of the Commission's regulations basically require each person engaged in the solicitation or acceptance of orders for the purchase or sale of any commodity for future delivery, on or subject to the rules of any contract market, to register as a futures commission merchant ("FCM"). However, persons trading solely for a proprietary account within the meaning of § 1.3(y) are excluded from this registration requirement. Thus, by reclassifying certain proprietary accounts as customer accounts, persons engaged in the activities described in § 1.7 with respect to the solicitation or acceptance of orders involving commodity futures transactions for such accounts will be required to register pursuant to that section. This will mean that persons owning such reclassified accounts will benefit from the safeguards of the registration requirements with respect to the qualification and fitness of these individuals and firms.

Segregation

Section 4d(2) of the Act requires FCM's to account separately for money, securities and property of their customers and, among other things, provides that such money, securities and property must mot be commingled with the funds of the FCM or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer other than the one for whom the same are held.

Sections 1.20 through 1.30 of the Commission's regulations establish specific requirements with respect to such customer money, securities and property. On the other hand, money, securities, or property in proprietary accounts need not be treated in accordance with these requirements; therefore, the reclassification of accounts from proprietary accounts to customer accounts, as described above, will have the effect of extending the protection of these requirements to the persons owning such reclassified accounts.

Recordkeeping

The Commission's recordkeeping rules, §§ 1.31 through 1.39, require FCM's to maintain certain records with respect to the accounts of their customers which, with some exceptions, FCM's are not required to keep for proprietary accounts. For example, § 1.33 requires the FCM, subject to certain qualifications, to send a monthly statement to each of its customers; and § 1.35 relates to the recording and receipt of customer orders. Thus, the owners of accounts reclassified as customer accounts by virtue of the amendment to the definition of "proprietary account" will be afforded the additional protections of the Commission's recordkeeping rules.

Minimum Financial Regulations

Accounts which are jointly owned by customers and persons listed in the definition of proprietary account contained in § 1.3(y) are currently subject to the requirements of § 1.17(c)(5)(ix) of the Commission's regulations[3] which, among other things, requires a safety factor charge to the capital of the FCM for non-customer accounts to the extent that such accounts are under-margined in exess of two business days. Accounts reclassified as above will become subject to the requirements of § 1.17(c)(5)(viii) which requires a safety factor charge for under-margined customer futures accounts to the extent of the amount of funds required in each such account to meet the maintenance

[1] In view of the changes which have taken place in the industry since § 1.3(y) was first adopted and its broadened regulatory responsibilities under the Act, the Commission, in addition to requesting comments with respect to the proposed rule change described above, also requested comments concerning the desirability of further amendments to the definitions of the term "proprietary account" and of the term "customer." Two commentators addressed these possible further amendments only and did not comment upon the amendment to § 1.3(y). These submissions were not directly related to the instant rule amendment; however, they will be made part of the record for consideration in connection with a possible further rulemaking proceeding in this area.

[2] 7 U.S.C. 6d and 6f (1976) as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, §§ 4 and 5, 92 Stat. 869 (1978). All references to Commission regulations can be found in Title 17 of the Code of Federal Regulations at the identical section number. For example, § 1.35 of the Commission's regulations is found at 17 CFR 1.35.

[3] Reference is to § 1.17 as recently amended by the Commission. *See* the Commission's release dated September 1, 1978 (43 FR 39956, September 8, 1978). The amendment to § 1.17 became effective on December 20, 1978. When this section is codified in the Code of Federal Regulations, it will be cited 17 CFR 1.17.

margin requirements after application of calls for margin or other required deposits, which are outstanding five business days or less until December 31, 1980, four business days or less until December 31, 1982, and three business days or less thereafter. Thus, the rule change and concomitant reclassification of accounts permits a somewhat longer time period within which the FCM's may collect amounts due in reclassified, under-margined accounts without incurring a safety factor charge to their capital. Therefore, the amendment has the potential for permitting slightly increased financial risks to firms. The Commission believes, nonetheless, that this factor is outweighed by the benefits of extending the protections described above to an increased number of accounts.

In consideration of the foregoing, the Commission hereby amends Title 17, Chapter I, Part 1 of the Code of Federal Regulations, by revising § 1.3(y) to read as follows:

§ 1.3 Definitions.

* * * * *

(y) *Proprietary account.* This term shall mean a commodity futures trading account carried on the books and records of an individual, a partnership, corporation or other type association, (1) for one of the following persons, or (2) of which ten percent or more is owned by one of the following persons, or an aggregate of ten percent or more of which is owned by more then one of the following persons: * * *

* * * * *

(Sec. 4d, Pub. L. 74–675, 49 Stat. 1494 (7 U.S.C. 6d), as amended, Pub. L. 90–258, 82 Stat. 27, Pub. L. 93–463, 88 Stat. 1392, Pub. L. 95–405, 92 Stat. 869; Sec. 4f, Pub. L. 74–675, 49 Stat. 1495 (7 U.S.C. 6f), as amended, Pub. L. 90–258, 82 Stat. 28, Pub. L. 93–463, 88 Stat. 1392, Pub. L. 95–405, 92 Stat. 869; Sec. 4g, Pub. L. 74–675, 49 Stat. 1496 (7 U.S.C. 6g), as amended, Pub. L. 90–258, 82 Stat. 28, Pub. L. 93–463, 88 Stat. 1392, 1415, Pub. L. 95–405, 92 Stat. 869; Sec. 8a(5), Pub. L. 74–675, 49 Stat. 1501 (7 U.S.C. 12a(5)), as amended, Pub. L. 90–258, 82 Stat. 33, Pub. L. 93–463, 88 Stat. 1392)

Issued in Washington, D.C., on May 15, 1979, by the Commission.

James M. Stone,

Chairman, Commodity Futures Trading Commission.

[FR Doc. 79–15719 Filed 5–18–79; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF STATE

22 CFR Part 151

[Dept. Reg. 108.777]

Compulsory Liability Insurance for Diplomatic Missions and Personnel

AGENCY: Department of State

ACTION: Final rule

SUMMARY: These regulations specify the insurance required under the Diplomatic Relations Act of all diplomatic missions, members of missions and their families and officials of the United Nations entitled to diplomatic immunity, including the limits of liability, and describe the evidence of insurance necessary before the Department of State endorses applications for diplomatic automobile license plates or exemptions from registration fees.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: David P. Stewart, Special Assistant to the Legal Adviser, Department of State, Washington, D.C. 20520, telephone 202–632–2149.

SUPPLEMENTARY INFORMATION: The Diplomatic Relations Act, Pub. L. 95–393, September 30, 1978 (22 U.S.C. 254a et seq., 28 U.S.C. 1364) ("the Act") became effective December 29, 1978. As of that date, previous statutes on diplomatic immunity dating from the eighteenth century (22 U.S.C. 252–254) were repealed and the privileges and immunities provisions of the 1961 Vienna Convention on Diplomatic Relations (23 UST 3227, 500 UNTS 95), were established as the United States law on diplomatic immunity.

Section 6 of the Act requires diplomatic missions, members of missions, their families, and senior officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against risks arising from their operation of motor vehicles, vessels or aircraft. The President was directed to establish the requirements for this liability insurance by regulation. Executive Order 12101 (43 FR 54195) delegated to the Secretary of State the authority to prescribe these regulations.

On December 6, 1978, the Department of State published in the **Federal Register** a proposed regulation to implement these requirements (43 FR 57159). In response to that notice, the Department received three written comments. A public meeting to receive oral comments was held on February 5, 1979, at which one person testified.

One written comment expressed concern that the Act permits claimants to bring civil suits directly against the insurers of persons subject to the Act but deprives those insurers of the defenses that the insured is immune from suit, is an indispensable party or, in the absence of fraud or collusion, has violated a term of the contract. The comment considered that the Act thus severely impairs the ability of the insurer to defend itself in the event that the insured refuses to cooperate. The comment urged that the regulation include a statement that the insured would be expected to comply with provisions of the contract relating to cooperation with the insurer. Language to that effect has been included in § 151.7.

Another comment recommended that procedures be included to permit the Department to verify statements of self-certification submitted under § 151.8 by having copies of cancellation notices sent to the Department by insurers and by "spot checking" with designated insurers. The Department considered this recommendation but determined that including such a procedure for having cancellation notices sent to the Department was neither necessary nor appropriate, particularly in view of the fact that cancellation notices are often issued for non-payment of premiums, a matter later rectified by remittance of the premium. In respect of "spot checking", the Department has amended § 151.8 to respond to this concern.

The third comment suggested that the definition of "authorized insurer" in § 151.6 be broadened to include "surplus lines" insurers in order to conform the regulation to existing industry practice and to reflect the international character of the business. The Department was concerned not to exclude from the scope of the definition insurers permitted to write insurance by the applicable laws of the jurisdiction. By the same token, however, the Department did not wish to include those not permitted to write insurance under local law. Accordingly, § 151.6 has been amended to include insurers which are licensed "or otherwise authorized by applicable law" to do business in the jurisdiction concerned.

Further review of the proposed regulation by the Department indicated the need for additional modifications of a clarifying and procedural nature. These include: (a) Adding to § 151.2, for ease of reference, the statutory definitions set forth in Section 2 of the Act; (b) specifying that evidence of insurance required by § 151.9 may be submitted either by the Chief of Mission

or by any other duly authorized mission official; and (c) clarifying that evidence of insurance under § 151.8 must be submitted upon official request as well as on a periodic basis.

Accordingly, by virtue of the authority vested in the President by Section 6(b) of the Diplomatic Relations Act (22 U.S.C. 254e(b)) and delegated to the Secretary of State by Executive Order No. 12101, a new Part 151 is hereby added to title 22 of the Code of Federal Regulations as set forth below:

For the Secretary of State.

Dated: May 15, 1979.

Ben H. Read,

Under Secretary for Management.

Subchapter F—Diplomatic Privileges and Immunities

PART 151—COMPULSORY LIABILITY INSURANCE FOR DIPLOMATIC MISSIONS AND PERSONNEL

Sec.

Authority: Sec. 4, 63 Stat. 111 (22 U.S.C. 2658); Sec. 6 Pub. L. 95–393 (92 Stat. 809, 22 U.S.C. 254e); E.O. 12101 (43 FR 54195).

§ 151.1 Purpose.

This part establishes regulations required under section 6 of the Diplomatic Relations Act (Pub. L. 95–393; 22 U.S.C. 254e). These regulations require all missions, members of missions and their families, and those officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against the risks of bodily injury, including death, and property damage, including loss of use, arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft.

§ 151.2 Definitions.

(a) "Act" means the Diplomatic Relations Act, Pub. L. 95–393 (22 U.S.C. 254a et seq., 28 U.S.C. 1364).

(b) "Persons subject to the Act", as defined in Section 2 of the Act, means: (1) The head of a mission and members of the diplomatic staff, administrative and technical staff, and service staff of a mission, as such terms are defined in Article 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (TIAS 7502, 23 U.S.T. 3227); (2) members of the family of a member of the diplomatic staff of a mission who form part of his or her household if they are not nationals of the United States, and members of the family of a member of the administrative and technical staff of a mission who form part of his or her household if they are not nationals or permanent residents of the United States; and (3) senior officials of the United Nations as defined in paragraph (d) of this section.

(c) "Missions", as defined in Section 2 of the Act, means missions within the meaning of the Vienna Convention on Diplomatic Relations and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention.

(d) "Senior United Nations official" means a United Nations official entitled to diplomatic immunity as provided in § 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946 (21 UST 1418; 1 UNTS 16).

(e) "Insurance" means insurance as required by the Act and these regulations.

§ 151.3 Types of insurance coverage required.

(a) Every person subject to the Act and every mission shall have and maintain with respect to any motor vehicle, vessel or aircraft owned by, leased to, or furnished for the regular use of every such person or mission liability insurance in accordance with the form, terms, and conditions provided for in these regulations.

(b) The insurance shall provide coverage against the following risks to third parties arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft:

(1) Bodily injury, including death;

(2) Property damage, including loss of use; and

(3) Any additional coverage required to be included in liability insurance policies by the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed, or kept, such as uninsured motorist coverage or first party no-fault coverage.

§ 151.4 Minimum limits for motor vehicle insurance.

The insurance shall provide not less than the minimum limits of liability specified in the financial responsibility, compulsory insurance or other law of the jurisdiction where the motor vehicle is principally garaged.

§ 151.5 Recommended limits for motor vehicle insurance.

Every person subject to the Act and every mission should have and maintain insurance adequate to afford reasonable compensation to accident victims. Minimum limits of liability of $100,000 per person and $300,000 per incident for bodily injury, including death, and $50,000 per incident for property damage, including loss of use, are recommended to meet this objective.

§ 151.6 Authorized insurer.

The insurance must be issued by an insurer licensed or otherwise authorized by applicable law to do business in the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed or kept.

§ 151.7 Policy terms consistent with the Act.

(a) The insurance shall be construed in conformity with the Act. In particular, no effect shall be given to any policy terms which are inconsistent or in conflict with those provisions of the Act stating that any suit against the insurer under the policy shall not be subject to any of the following defenses:

(1) That the insured is immune from suit;

(2) That the insured is an indispensable party; or

(3) In the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was canceled before the claim arose.

(b) Notwithstanding the provisions of paragraph (a) of this section, the insured is expected to respond to reasonable requests from the insurer for cooperation.

§ 151.8 Evidence of insurance for motor vehicles.

(a) Every mission must periodically, and otherwise upon official request, furnish evidence satisfactory to the Department of State that the required insurance is in effect for the mission, its members and their families. Every senior United Nations official must also periodically furnish evidence satisfactory to the Department of State that the required insurance is in effect.

(b) The Department of State will accept as satisfactory evidence that the required insurance is in effect:

(1) A written statement of self-certification signed by the Chief of Mission, indicating that the mission, its members and their families have and will maintain insurance throughout the period of registration of all vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each policy by number and name of insured; and

(2) A written statement of self-certification signed by each senior United Nations official, indicating that he or she has and will maintain insurance throughout the period of registration on all motor vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each by number and name of insured.

(c) A certification under paragraph (b) of this section by a Chief of a Mission to the United Nations or by a senior United Nations official shall be delivered to the Counselor for host country affairs of the United States Mission to the United Nations. All other certifications shall be delivered to the Chief of Protocol, Department of State.

§ 151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.

The Department of State will not endorse on behalf of any person subject to the Act or any mission any application for diplomatic motor vehicle license plates or any application for waiver of motor vehicle registration fees without prior receipt of satisfactory evidence from the Chief of Mission or other duly authorized official that the required insurance is in effect.

§ 151.10 Minimum limits of insurance for aircraft and/or vessels.

Insurance in respect of vessels and/or aircraft shall provide limits of liability adequate in light of reasonably foreseeable risks from the ownership, maintenance, or other regular use of vessels and/or aircraft.

§ 151.11 Notification of ownership, maintenance or use of vessel and/or aircraft; evidence of insurance.

(a) Each person subject to the Act and each mission must notify the Department of State in writing of the ownership, maintenance or other regular use of a vessel or aircraft in the United States by such mission or person.

(b) Notices under paragraph (a) of this section shall identify the vessel and/or aircraft with specificity, including model and manufacturer's name, and serial and registration numbers. Each notification shall be accompanied by a copy of the insurance policy or policies issued in respect of the vessel and/or aircraft. Such policy or policies need not be issued by the insurer providing liability insurance for motor vehicles.

(c) With regard to senior United Nations officials, missions to the United Nations and members of such missions as have diplomatic status and their families, notices and evidence of insurance under this section shall be delivered to the counselor for Host Country Affairs of the United States Mission to the United Nations. All other notices under this section shall be delivered to the Chief of Protocol, Department of State.

[FR Doc. 79-15802 Filed 5-18-79; 8:45 am]

BILLING CODE 4710-20-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

24 CFR Part 1917

[Docket No. FI-4699]

National Flood Insurance Program; Final Flood Elevation Determination for the Township of Flint, Genesee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Flint, Genesee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Flint, Genesee County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Township of Flint are available for review at the Township Hall, 1490 South Dye Road, Flint, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or toll free line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Flint, Genesee County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flint River	At downstream corporate limit.	690
	950 feet downstream of Hartshorn Drain confluence.	696
	Just downstream of Ballenger Highway.	702
Swartz Creek	Just upstream of Ballenger Highway at downstream corporate limit.	737
	Just upstream of Interstate 75.	741
	Just upstream of Claude Road.	743
	4,300 feet upstream of Claude Road.	746
	730 feet downstream of Interstate 69.	751
	Just downstream of Bristol Road.	752
	4,100 feet downstream of Maple Avenue.	758
	Just downstream of Maple Avenue.	761
West Branch Swartz Creek.	At confluence with Swartz Creek.	751
	Just downstream of Bristol Road.	752
	Just upstream of Dye Road	756
	Just upstream of Golf Course dam.	759
	1,550 feet downstream of Interstate 69.	761
	Just downstream of Elms Road.	764
Hartshorn Drain	At confluence with Flint River	696
	980 feet downstream of Linden Road.	696
	100 feet downstream of Linden Road.	703
	100 feet upstream of Linden Road.	709
Carman Creek	Just upstream of Hemphill Road.	755
	1,350 feet upstream of Hemphill Road.	756
	Just downstream of Fenton Road.	759

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Massmore Cronk Drain.	Just upstream of Elms Road..	740
	Just upstream of Calkins Road.	750
	Just upstream of Yorkshire Road.	753
	Just upstream of West Court Street.	759
	150 feet upstream of Corunna Road.	761
	2,560 feet upstream of Corunna Road.	763

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and the Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 30, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-15723 Filed 5-18-79; 8:45 am]

BILLING CODE 4210-23-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1221-8]

Approval and Promulgation of Implementation Plans; Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve four revisions to the Massachusetts State Implementation Plan (SIP) permanently extending Massachusetts Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" for the Pioneer Valley Air Pollution Control District (APCD) the Massachusetts portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region (AQCR), Metropolitan Boston APCD the same geographical boundaries as the Metropolitan Boston Intrastate AQCR, Southeastern Massachusetts APCD the Massachusetts portion of the Metropolitan Providence Interstate AQCR, and Merrimack Valley APCD the Massachusetts portion of the Merrimack Valley-Southern New Hampshire Interstate AQCR. The regulation being extended permits the burning of higher sulfur content fuels by certain sources under specified conditions. EPA is also approving two revisions to Massachusetts Regulation 310 CMR 7.05(4) "Ash Content of Fuels" to permit the burning of fossil fuels with ash content in excess of nine percent, by dry weight, at any facility in the Pioneer Valley APCD and Metropolitan Boston APCD.

EFFECTIVE DATE: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Victor M. Trinidad, Air Branch, EPA Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203, (617)223–5609.

SUPPLEMENTARY INFORMATION: On March 15, 1979, the Regional Administrator published in the **Federal Register** (44 FR 15738) a notice proposing approval of six revisions to the Massachusetts SIP. The SIP revisions, submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Department) on July 20, 1978, December 28, 1978 and January 3 and 31, 1979, included a permanent extension to Massachusetts Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" (formerly Regulation 5.1) for each of four Massachusetts Air Pollution Control Districts (APCD's): Pioneer Valley, Metropolitan Boston, Merrimack Valley and Southeastern Massachusetts. Two revisions to Massachusetts Regulation 310 CMR 7.05(4) "Ash Content of Fuels" were also submitted for Pioneer Valley APCD and Metropolitan Boston APCD.

The original Massachusetts SIP was approved by EPA on May 31, 1972 (37 FR 10842). It established specified limits for the sulfur content of fuels. Massachusetts Chapter 494 of the Acts of 1974 requires the Department to periodically review the control strategies and to relax any regulation more stringent than necessary to comply with National Ambient Air Quality Standards (NAAQS). As a result of Chapter 494, SIP revisions have been submitted allowing certain sources to burn higher sulfur fuels. To insure adequate review, analysis, and public input into the evaluation of the impacts of burning higher sulfur fuels, the initial revisions were temporary with specific end dates. Each date was extended until July 1, 1979. The revisions being approved today would rescind the expiration date and will implement the regulation on a permanent basis. The Department submitted a list of over 80 eligible sources with heat input capacities over 100 million Btu per hour.

EPA determined that it could not adequately review and take action on the entire list by July 1, 1979. Therefore, in order to permit the continuous burning of higher sulfur fuel at facilities burning it, EPA, in consultation with the Department, divided the list in two parts. EPA proposed to approve certain sources on March 15, 1979 (44 FR 15738). A complete history of the initial revisions and extensions was presented in the March 15, 1979 **Federal Register** proposal.

EPA is approving today the sulfur-in-fuel regulations for the following sources:

Metropolitan Boston Air Pollution Control District—Sulfur Content of Fuel

Facility	Pounds per million Btu's [1]
1. New England Power Co., Salem Harbor Station, Salem	1.21
2. Boston Edison, L Street, New Boston Station, Boston	0.55
3. Boston Edison, Mystic Station, Everett	0.55
4. Ventron Corp., Danvers	1.21
5. General Electric, Lynn River Works, Lynn	1.21
6. U.S.M. Corp., Beverly	1.21
7. Medfield State Hospital, Medfield	1.21
8. General Dynamics, Quincy	1.21
9. Hollingsworth and Vose, East Walpole	1.21
10. Kendal Co., Walpole	1.21
11. Dennison Manufacturing Co., Framingham	1.21

[1] Heat release potential.

Southeastern Massachusetts APCD—Sulfur Content of Fuel

Facility	Pounds per million Btu's [1]
1. New England Power Co., Brayton Point Station, Somerset	1.21
2. Montaup Electric Co., Somerset Station, Somerset (provided it is limited to 75 percent capacity while burning higher sulfur fuels)	1.21
3. Canal Electric Co., Sandwich	1.21
4. Taunton Municipal Lighting Plant, Somerset Avenue, Taunton	1.21

[1] Heat release potential.

Pioneer-Valley APCD—Sulfur Content of Fuel

Facility	Pounds per million Btu's [1]
1. Amherst College, Amherst	1.21
2. Brown Co., Holyoke	1.21
3. Monsanto Polymer and Petrochemical Co., Bldg. 21, Springfield	1.21
4. Monsanto Polymer and Petrochemical Co., Bldg. 49, Springfield	1.21
5. Mount Holyoke College, S. Hadley	1.21
6. Uniroyal Tire Inc., Chicopee	1.21
7. Smith College, Northampton	1.21
8. West Springfield Generating Station, Western Massachusetts Electric, West Springfield	1.21
9. Deerfield Specialty Paper, Monroe Bridge	1.21

[1] Heat release potential.

Merrimack Valley APCD—Sulfur Content of Fuels

Facility	Pounds per million Btu's [1]
1. Hollingsworth and Vose, West Groton	1.21
2. James River Pepperell, Pepperell	1.21
3. Haverhill Paperboard, Haverhill	0.75
4. All residual oil burning facilities less than 100 million Btu's/hour heat input capacity except in the city of Lawrence and towns of Andover, Methuen and North Andover	1.21

[1] Heat release potential.

All other residual fuel burning sources in the four AQCR's remain subject to the requirements of the original SIP.

The Department (as in the temporary revisions), at any time could require the sources to establish and operate an ambient air monitoring network around the sources or mandate the sources to return to burn lower sulfur fuels if violations of NAAQS or other State regulations (i.e., particulate matter emission limitations or the opacity requirement) occur.

There have been no monitored violations of the NAAQS for SO_2 in Massachusetts since regulation 310 CMR 7.05 (permitting burning of higher sulfur fuel oil in certain facilities) has been in effect.

Although there have been monitored violations for total suspended particulates (TSP) in the vicinity of some of the sources, the Department determined that emissions from the sources did not have an impact on such violations.

EPA is also approving today the revisions to allow fossil fuel burning facilities in Pioneer Valley APCD and Metropolitan Boston APCD with capacities less than 250 million Btu per hour heat input to burn fossil fuel with an ash content in excess of nine percent by dry weight. The original Massachusetts SIP approved on May 31, 1972 (37 FR 10842) specified both a particulate emission limit and a limit of nine percent by dry weight on the ash content, but only the ash limitation will be relaxed by this rulemaking.

Five comments were received during the 30-day comment period. All of them supported the revision.

The SIP revisions approved today are not subject to the requirements of 40 CFR 51.24 concerning Prevention of Significant Deterioration (PSD) of Air Quality. In all cases the State had submitted the original revisions increasing the sulfur in fuel levels before August 7, 1977, and those revisions or extensions of those revisions were pending approval before the Administrator on August 7, 1977. Therefore, the allowable emissions from the sources are included in the baseline concentration and do not represent increased air quality deterioration over this baseline. Further, the two revisions allowing the change to the ash content regulation do not require an analysis for PSD increment consumption (40 CFR 51.24) since the particulate emission limitation will not be changed and no air quality deterioration will result.

The Agency finds that good cause exists for making this action effective immediately so as to prevent interruption of the burning of higher sulfur fuel by the named sources.

After evaluation of the Department's submittals, the Administrator has determined that these revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, these revisions are approved as revisions to the Massachusetts State Implementation Plan.

(Sec. 110(a)(2)A–K and 301, Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

Dated: May 11, 1979.

Douglas M. Costle,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. In § 52.1120 paragraph (c) is amended by adding the following:

§ 52.1120 Identification of plan

* * * * *

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

* * * * *

(20) A revision permanently extending Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) "Sulfur Content of Fuels and Control Thereof" and a revision for the Metropolitan Boston APCD, and Merrimack Valley APCD submitted on December 28, 1978, by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(21) A revision permanently extending Regulation 310 CMR 7.05(1) (formerly Regulation 5.1), "Sulfur Content of Fuels and Control Thereof" and a revision to Regulation 310 CMR 7.05(4) "Ash Content of Fuels" for the Pioneer Valley Air Pollution Control District, submitted on January 3, 1979 by the Acting Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(22) A revision permanently extending Regulation 310 CMR 7.05(1) (formerly Regulation 5.1), "Sulfur Content of Fuels and Control Thereof" for the Southeastern Massachusetts APCD, submitted on January 31, 1979 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(23) A revision to Regulation 310 CMR 7.05(4) "Ash Content of Fuels" for the Metropolitan Boston Air Pollution Control District, submitted on July 20, 1978 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

§ 52.1126 [Amended]

2. Section 52.1126, paragraph (b) is revised to read as follows:

* * * * *

(b) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Pioneer Valley Air Pollution Control District, which allows a relaxation of sulfur in fuel limitations under certain conditions, is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulate that sources are required to burn residual fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content.)

Deerfield Specialty Paper Company, Monroe Bridge; Amherst College, Amherst; Brown Company, Holyoke; Monsanto Polymer and Petrochemical Company, Building 21, Springfield; Monsanto Polymer and Petrochemical Company, Building 49, Springfield; Mount Holyoke College, South Hadley; Uniroyal Tire Inc., Chicopee; Smith College, Northampton; West Springfield Generating Station, Western Massachusetts Electric, West Springfield.

* * * * *

3. Section 52.1126, paragraph (d) is revised to read as follows:

* * * * *

(d) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Southeastern Massachusetts Air Pollution Control District, which allows a relaxation of sulfur in fuel limitations under certain conditions is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulate that sources are required to burn residual fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content.)

New England Power Company, Brayton Point Station, Somerset; Montaup Electric Company, Somerset Station, Somerset (limited to 75% capacity while burning higher sulfur fuels.) Canal Electric Company, Sandwich; Taunton Municipal Lighting Plant, Somerset Avenue, Taunton.

* * * * *

4. Section 52.1126, paragraph (e) is revised to read as follows:

* * * * *

(e) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Merrimack Valley Air Pollution Control District, excluding the City of Lawrence and the towns of Andover, Methuen, and North Andover, which allows a relaxation of sulfur in fuel limitations under certain conditions, is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulates that sources are required to burn residual fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content).

Hollingsworth and Vose, West Groton; James River Paper, Pepperell; Haverhill Paperboard Corp., Haverhill. Residual oil burning facilities less than 100 million Btu's per hour heat input capacity, except in the City of Lawrence, and Towns of Andover, Methuen, and North Andover.

* * * * *

5. Section 52.1126, paragraph (f) is revised to read as follows:

* * * * *

(f) Massachusetts Regulation 310 CMR 7.05(1) (formerly Regulation 5.1) for the Metropolitan Boston Air Pollution Control District, which allows a relaxation of sulfur in fuel limitations under certain conditions, is approved for the following sources. All other sources remain subject to the previously approved requirements of Regulation 7.05(1) which stipulate that sources in Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, and Watertown (the Boston Core Area) are limited to burn fuel with a sulfur content not in excess of 0.28 pounds per million Btu heat release potential (approximately 0.5% sulfur content residual oil; sources in the remaining APCD are limited to burn fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately 1% sulfur content residual oil).

New England Power Company, Salem Harbor Station, Salem; Boston Edison, L Street, New Boston Station, Boston; Boston Edison, Mystic Station, Everett; Ventron Corporation, Danvers; General Electric, Lynn River Works, Lynn; U.S.M. Corporation, Beverly; Medfield State Hospital, Medfield; General Dynamics, Quincy; Hollingsworth and Vose, East Walpole; Kendal Company, Walpole; Dennison Manufacturing Company, Framingham.

[FR Doc. 79-15647 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1222-7]

Delayed Compliance Order for Phillips Petroleum Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Phillips Petroleum Company (Phillips). The Order requires the Company to bring air emissions from its volatile organic material storage and loading facility at Clermont, Indiana into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Phillips' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On December 19, 1978 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (43 FR 59103) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Phillips. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Phillips by the Administrator of U.S. EPA pursuant to the authority of Section 113(d) of the Act, 42 U.S.C. Section 7413(d). The Order places Phillips on a schedule to bring its volatile organic material storage and loading facility at Clermont into compliance as expeditiously as practicable with Regulation APC-15, Section 3 and 4, a part of the federally approved Indiana State Implementation Plan. Phillips is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Phillips to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Phillips will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Phillips is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective May 21, 1979, because of the need to immediately place Phillips on a schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. secs. 7413(d), 7601.)

Dated: May 11, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.190:

§ 65.190 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final Compliance Date
*	*	*	*	*	*
Phillips Petroleum Company	Clermont, Indiana	EPA-5-79-A-33	12/19/78	APC-15, secs. 3 and 4.	7/1/79.
*	*	*	*	*	*

[FR Doc. 79-15645 Filed 5-18-79; 8:45 am]

BILLING CODE: 6560-01-M

40 CFR Part 65

[FRL 1223-4]

Delayed Compliance Order for Metropolitan Wastewater Treatment Plant, St. Paul, Minn.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Metropolitan Wastewater Treatment Plant (Metroplant). The Order requires the Metroplant to bring air emissions from its sludge processing and disposal plant at St. Paul, Minnesota, into compliance with certain regulations contained in the federally approved Minnesota State Implementation Plan (SIP). Metroplant's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 6, 1979 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 7184) a notice setting out the provisions of a proposed State Delayed Compliance Order for Metroplant. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Metroplant by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Metroplant on a schedule to bring its sludge processing and disposal plant at St. Paul, Minnesota, into compliance as expeditiously as practicable with Minnesota Regulation APC-28(b)(1)(cc) and APC-28(b)(2), (APC-7(b)(1)(cc), APC 7(b)(2) and APC 11(b)) of the Minnesota Implementation Plan. Metroplant is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Metroplant to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Metroplant will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violation of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Metroplant is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act. U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Metroplant on a schedule for compliance with the Minnesota State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: May 11, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.281:

§ 65.281 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
* *	*	*	*	*	* *
Metroplant wastewater treatment plant.	St. Paul, Minn		2/6/79	APC-7(b)(1)(cc), APC-7(b)(2), APC-11(b).	7/1/79
* *	*	*	*	*	*

[FR Doc. 79-15921 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

41 CFR Part 5A-60

[Adm. 2806.4 Chge. 1]

Contract Appeals; Adoption of Rules Providing for Optional Small Claims and Accelerated Procedures and Rules for Subpoenas

AGENCY: General Services Administration.

ACTION: Interim rules.

SUMMARY: The General Services Administration Board of Contract Appeals has modified its rules by adding new procedures pertaining to small claims and subpoenas as required by the Contract Disputes Act of 1978, Pub. L. 95-563.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT: Patricia M. Black, Deputy Chief Counsel for Law and Procedure, GSA Board of Contract Appeals (202-566-0720).

SUPPLEMENTARY INFORMATION: Effective March 1, 1979, the Contract Disputes Act of 1978, Pub. L. 95-563 provides for various changes in prior contract dispute policies and practices. The General Services Administration Board of Contract Appeals has been reestablished pursuant to § 8(a)(1) of that act to resolve contract appeals

under the act. The following interim rules of the Board are adopted as additions to the existing rules pending issuance by the Office of Federal Procurement Policy of final procedural guidelines under section 8(h) of Pub. L. 95–563.

Section 5A–60.101 is amended by adding rules 12.1 and 34 to read as follows:

§ 5A-60.101 Rules of the GSA Board of Contract Appeals (GSBCA).

* * * * *

Preliminary Procedures

* * * * *

12. *Optional accelerated procedure.*

* * * * *

12.1. *Optional small claims and accelerated procedures.* These procedures are available solely at the election of the appellant.

(a) *Elections to utilize small claims and accelerated procedures.* (1) In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a small claims procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in paragraph (b) of this rule 12.1. An appellant may elect the accelerated procedure rather than the small claims procedure for any appeal eligible for the small claims procedure.

(2) In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an accelerated procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in paragraph (c) of this rule 12.1.

(3) The appellant's election of either the small claims procedure or the accelerated procedure may be made by written notice within 20 days after receipt of notice of docketing, unless this period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board and for good cause.

(4) In deciding whether the small claims procedure or the accelerated procedure is applicable to a given appeal, the Board shall determine the amount in dispute by adding the amount claimed by the appellant against the respondent to the amount claimed by the respondent against the appellant. If either party making a claim against the other party does not otherwise state in writing the amount of its claim, the amount claimed by such party shall be the maximum amount which such party represents in writing to the Board that it can reasonably expect to recover against the other.

(b) *The small claims procedure.* (1) This procedure shall apply only to appeals where the amount in dispute is $10,000 or less as to which the appellant has elected the small claims procedure.

(2) In cases proceeding under the small claims procedure, the following time periods shall apply: (i) Within 10 days from the respondent's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the small claims procedure, the respondent shall send the Board the documents required by rule 4; (ii) within 15 days after the Board has acknowledged receipt of the notice of election, either party desiring an oral hearing shall so inform the Board. If either party requests an oral hearing, the Board shall promptly schedule such a hearing for a mutually convenient time consistent with administrative due process and the 120-day limit for a decision, at a place determined under rule 17. If a hearing is not requested by either party within the time prescribed by this rule, the appeal shall be deemed to have been submitted under rule 11 without a hearing.

(3) In cases proceeding under the small claims procedure, pleadings, discovery, and other prehearing activity will be allowed only as consistent with the requirements to conduct the hearing on the date scheduled or, if no hearing is scheduled, to close the record on a date that will allow decision within the 120-day limit. The Board, in its discretion, may shorten time periods prescribed elsewhere in these rules as necessary to enable the Board to decide the appeal within 120 days after the Board has received the appellant's notice of election of the small claims procedure, allowing up to 30 days for preparation of the decision after closing the record and the filing of briefs, if any.

(4) Written decision by the Board in cases processed under the small claims procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may, in the Judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will furnish the parties a typed copy of the oral decision for record and payment purposes and to establish a date of commencement of the period for filing a motion for reconsideration under rule 29.

(5) Decisions of the Board under the small claims procedure will not be published, will have no value as precedents, and, in the absence of fraud, cannot be appealed.

(c) *The accelerated procedure.* (1) This procedure shall apply only to appeals where the amount in dispute is $50,000 or less as to which the appellant has made the requisite election.

(2) In cases proceeding under the accelerated procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion, may shorten time periods prescribed elsewhere in these rules as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the accelerated procedure, allowing up to 30 days for the preparation of the decision after closing the record and the filing of briefs, if any.

(3) Written decisions by the Board in cases processed under the accelerated procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge with the concurrence of the Chairman or Vice Chairman or other designated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the accelerated procedure has been elected and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of the oral decision for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsideration under rule 29.

(d) *Motions for Reconsideration in rule 12.1 cases.* Motions for Reconsideration of cases decided under either the small claims procedure or accelerated procedure need not be decided within the time periods prescribed by this rule 12.1 for the initial decision of the appeal, but all of these motions shall be processed and decided rapidly so as to fulfill the intent of this rule.

* * * * *

Subpoenas

34. *Subpoenas.*

(a) *General.* Upon written request of either party filed with the Clerk, or on his own initiative, the Administrative Judge to whom a case is assigned or who is otherwise designated by the Chairman may issue a subpoena requiring:

(1) Testimony at a deposition—the deposing of a witness in the city or county where he resides or is employed or transacts his business in person, or at another location convenient for him that is specifically determined by the Board;

(2) Testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(3) Production of books, papers, documents, or tangible things—in addition to (1) or (2), above, the production by the witness at the deposition or hearing of relevant books, papers, documents, or tangible things designated in the subpoena.

(b) *Voluntary cooperation.* Each party is expected (1) to cooperate and make available witnesses and books, papers, document, or tangible things under its control as requested by the other party, without issuance of a subpoena and (2) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things.

(c) *Requests for subpoenas.* (1) A request for a subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought. The Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books, papers, documents, or tangible things sought.

(d) *Requests to quash or modify.* Upon written request by the person subpoenaed or by a party made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books, papers, documents, or tangible things. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form, issuance.* (1) Every subpoena shall state the name of the Board and the title of the appeal and shall command each person to whom it is directed to attend and give testimony and, if appropriate, to produce specified books, papers, documents, or tangible things, at a time and place specified therein. In issuing a subpoena to a requesting party, the Administrative Judge shall sign the subpoena and may, at the discretion of the Judge enter the name of the witness or leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781–1784.

(f) *Service.* (1) The Administrative Judge may arrange for service of the subpoenas or may release them to the parties for service, at the discretion of the Judge.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or his deputy, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to him and tendering to him the fees for 1 day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of these charges on demand may be deemed by the Board to be sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(g) *Contumacy or refusal to obey a subpoena.* In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence, or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: April 25, 1979.

Paul E. Goulding,

Acting Administrator of General Services.

[FR Doc. 79-15787 Filed 5-18-79; 8:45 am]

BILLING CODE 6820-61-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

[CSA Instruction 6132-2b]

Community Food and Nutrition Program (CFNP)

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration (CSA) is filing a final rule revising its policy statement for the Community Food and Nutrition Program (CFNP) funded under section 222(a)(1) of the Economic Opportunity Act of 1964 as amended. This final rule is required since CSA has determined there is a need to revise certain aspects of the previous year's funding policy and procedures and to inform applicants of those changes. The rule details policies and application procedures relevant to funding Community Food and Nutrition projects with Fiscal Year 1979 funds.

DATE: This rule is effective June 20, 1979.

FOR FURTHER INFORMATION CONTACT: Community Food and Nutrition Program, Community Services Administration, 1200 Nineteenth Street, N.W., Washington, D.C. 20506, Telephone: (202) 632–6694, Teletypewriter: (202) 254–6218.

SUPPLEMENTARY INFORMATION: Comments received prior to April 9, 1979 were considered in drafting the final rule. Of a total of 102 comments received, 41 were from Community Action Agencies (CAA's), 29 from non-profit private anti-hunger organizations, 9 from Indian organizations, 8 from State Economic Opportunity Offices (SEOO's), 7 from CSA regional offices, 4 from migrant organizations, 1 from a state CAP Association, 1 from another federal agency, 1 from a local government agency and 1 from a private organization.

The great majority of the respondents expressed strong support of the basic policy initiatives of the CFNP and most of the refinements introduced in this year's proposed rule. Among the changes receiving widespread support were: A stronger emphasis upon advocacy, mobilization of resources, and coordination with other organizations engaged in anti-hunger activities; the elimination of bonus points for access and self-help, thus allowing applicants to establish priorities most nearly suited to local needs; giving funding preference in special support projects to state-wide anti-hunger coalitions; permitting CAA's to form consortiums; and reviewing, rating and ranking applications in their entirety rather than by program account.

Typical of the letters expressing support of the basic policy thrust of the CFNP was that of Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services, USDA. She states:

"I am once again pleased to write to you to support the thrust of the proposed rules for the Community Food and Nutrition Program. The emphasis on advocacy, mobilization of resources, and coordination with other anti-hunger efforts will continue to make the CFNP a valuable partner to the Food and Nutrition Service programs which represent this nation's commitment to eliminate poverty-related malnutrition.

As in past years, CFNP grantees have played an important role as a source of information on food program operations, of innovative approaches to improved administration, of catalytic activities to help

initiate or expand food program participation, and of pressure on this agency to improve its performance in the field. This has been, and I hope will continue to be a useful, if at times difficult, relationship.

In the coming year, FNS will undertake several initiatives of major importance in the fight against hunger. These include an expanded and significantly restructured Child Care Food Program, an expanded Supplemental Food Program for Women, Infants and Children, and major new outreach and performance standards in the Food Stamp Program. Considerable public attention and monitoring will be necessary for these changes to succeed. CFNP grantees are crucial to this success. As I have repeatedly stated, School Breakfast expansion is a *major priority* for FNS in the coming year. Local outreach and advocacy is the single most important element in this expansion and is an activity much better performed by community-based organizations than by USDA which must concentrate on national activities. Finally, continued scrutiny of the changes of the last year in anti-hunger programs, such as the total revision of the Food Stamp Program, is crucial to our ongoing assessment of progress and problems in the field.

Again, I appreciate the opportunity to comment on these proposed rules, I look forward to working with CSA and CFNP grantees in the continuing fight against hunger in this country."

A number of commentators made constructive recommendations, some of which have been incorporated in the final rule. Likewise, a number made thoughtful suggestions which, for a variety of reasons, we felt we could not include this year. Some commentators, for example, felt that we should eliminate the competitive process, with some arguing that competition discourages coordination, and others that a basic minimum funding level should be given to each CAA with the remainder of the funds awarded competitively. While each of these recommendations has merit, we felt that, in terms of allocating CFNP funds where there is the greatest need, and with a limited CFNP budget and uncertainty about the level of funds which Congress will appropriate for FY 80, we should continue with the competitive process for FY 79. It should be noted that, whether CSA followed a formal competitive process or not, there would be more applications for CFNP funds than there would be funds available for those applicants. Thus some criteria for selecting grantees would have to be used in any case. Since this is true, CSA has chosen to formalize the process and select grantees who we hope will be capable of performing the best job. We believe this process both rewards excellence and at the same time embodies less subjectivity than some other methods which might be employed to select grantees.

Some commentators suggested that self-help and crisis relief should be given higher priority. In view of the great potential which the other federal feeding programs have for making a substantial impact upon the problems of hunger and malnutrition among the poor, we cannot agree with this recommendation and must continue to stress the importance of "access" activities. However, in the proposed rule we dropped last year's bonus points, for "access" and "self-help" and increased the number of points for "analysis of needs" so as to allow an applicant to select without penalty, a program category that truly fits the needs of a given community. We have kept this change in the final rule.

Some respondents suggested that SEOO's and CAP associations not be permitted to apply for funds. They pointed out, for example, that SEOO's are in conflict-of-interest situations where they are permitted to recommend a governor's veto of a competitor's grant. We recognize that a potential problem exists here. However, we believe that to prohibit SEOO's from applying at all would be too drastic an action. The Director of CSA continues to have the power to override a governor's veto, where circumstances warrant, and we continue to believe that there is an appropriate role for SEOO's and CAP associations in the Community Food and Nutrition Program. Therefore, we have retained their eligibility to apply as stipulated in 1061.50–9(4).

Some commentators suggested that the new items (13) and (14) under Access, § 1061.50–7(a), were redundant, since these activities are permissible under (10) in the same section. We agree and have dropped these activities.

Several commentators suggested that the term "un-capped area" be defined and that CAA's be permitted to operate projects in those areas. Again we agree and have included that term among the definitions in § 1061.50–2 and have added a statement in § 1061.50–9(3) making it clear that CAA's are not precluded from operating projects in those areas if they are otherwise legally permitted to do so.

Several respondents pointed out that our requirement that the poor, rather than their representatives, participate in the selection of priorities other than access, was in violation of CSA's instructions regarding the participation of the poor on CAA governing boards. We concur and have made the needed correction. What we intended to say was that low-income residents themselves, rather than their "self-appointed representatives", should participate in establishing the priorities of a CFNP project. We have also strengthened the requirement regarding the "participation of the poor" and are requiring that documentation of such participation be required of all applicants in establishing priorities regardless of which program category they select.

One suggestion made was that CSA should clarify its authority to "monitor" other federal agency programs. We have done that. The term "monitoring" now appears in the section on definitions and CSA's authority for doing such is outlined in Appendix A, Section 3.

There was strong opposition on the part of a number of respondents to the use of the simple number of poor as a basis of allocating funds to the regions and there was considerable support for keeping last year's formula. It was agreed, for example, that an allocation formula based strictly on the number of poor would penalize rural areas where infant mortality and non-participation rates in the Food Stamp Program are higher. We are persuaded that for the time being, or until CSA can devise a better method of determining the extent of hunger and malnutrition among the nation's low-income citizens, we should keep last year's formula. We will continue to redistribute funds among the regions, based on that formula, with the provision that no region will be decreased by more than 10 percent.

An overwhelming number of commentators expressed support for the concept of multi-year funding. While this recommendation cannot be put into effect for FY 79, CSA will give serious consideration to instituting such a plan for a limited number of grantees in FY 80, if circumstances warrant such. About an equal number of respondents were for and against target allocations. CSA is tabling this idea for FY 79.

A considerable number of comments centered around the complexities of the A–95 clearinghouse procedures and the lack of necessary lead time both to comply with that process and to adequately prepare applications. CSA has requested and OMB has granted a procedural variation of the clearinghouse procedure for this fiscal year. While applicants are urged to submit their applications to the clearinghouses as soon as possible, they may submit their applications simultaneously to the clearinghouses and to CSA for concurrent review. (See § 1061.50–11). CSA also wishes to note that the regulations are being published much earlier this year than last, and that

applicants will have more time in which to prepare their applications than they had last year. We hope to be able to improve on this record for next year.

A substantial number of commentators recommended that all applicants be required to submit a project narrative so as to include relevant information not rquired by the Form 419 and to provide for a more detailed explanation of some of the items on the Form 419. The importance of this recommendation has been recognized and such a requirement has been included. Both the application and review procedures should be simplified as a result and applicants placed on a more equal footing in the review process.

Another recommendation supported by a number of commentators was that CSA notify both winners and losers on a timely basis and establish an appeals procedure for applicants who feel they may have been treated unfairly. The importance of these recommendations, also, is recognized and CSA has taken steps to carry out both (See Appendix A, Section 5).

Several references were made to the need to clarify certain key terms such as "catalytic", "advocacy", and "mobilization of resources", and the overlapping of these terms in the rating criteria was criticized. We agree that clarification of these terms was needed and have attempted to meet this need by redefining them. (See § 1061.50–2), as well as adding a further elaboration upon their meaning in Appendix A, Section 3. We have also revised the rating criteria to reflect this clarification.

A number of commentators suggested that Indians and migrants should be required to meet the same minimum standards as other applicants in the rating process. Also, some migrant and Indian commentators recommended altering the rating criteria to meet more precisely the unique needs of the migrant and Indian populations. Both of these recommendations have been adopted and are reflected in § 1061.50–9 (e) and (f) and in the new rating criteria for Indians and Migrants in Appendices C and D. (Note: We have also published a separate rating sheet for Special Support Projects. See Appendix E.)

The proposed rule stated that the CSA regional offices would publish in the Federal Register annually a list of T&TA requirements for the guidance of T&TA applicants in preparing their proposals. That procedure is being dropped. CSA has decided instead to publish *one* statement of regional T&TA needs which applies to *all* regions. That statement, which was based upon the recommendations of our regional offices, is found in § 1061.50–9(c).

While no specific reference has been made thus far about the comments received prior to the publication of the proposed rule, those comments were analyzed and for the most part they are reflected in the comments received after the publication of the proposed rule. Also, a number of the recommendations made earlier were included in the proposed rule. CSA wishes to thank all who took the time to comment. While not every recommendation could be adopted, we believe that, though this process, these regulations have been greatly strengthened and we hope that a more supportive relationship between CSA and its grantees has been forged.

Graciela (Grace) Olivarez,
Director.

45 CFR 1061 is amended by revising § 1061.50–1 through § 1061.50–13 (Subpart) to read as follows:

Subpart—Community Food and Nutrition Program (CFNP)

Sec.

Authority: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1061.50–1 Applicability.

This subpart is applicable to all grants and contracts funded under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1061.50–2 Definitions.

(a) *Program.* The provision of federal funds and administrative direction to accomplish a prescribed set of objectives through the conduct of specific activities. Example: CSA's Community Food and Nutrition Program.

(b) *Project.* The implementation level of a program where resources are used to produce an end product that directly contributes to the objectives of the program. Example: The School Breakfast Expansion Campaign of the Milwaukee CAP.

(c) *Limited Purpose Agency.* An organization or agency funded under sections 221 or 222 of the Act to conduct a specific program or programs, rather than the broad spectrum of programs conducted by a CAA. Limited purpose agencies are not subject to the requirements for local government designation and comprehensive community representation applicable to CAA's.

(d) *"Un-capped Area".* An "un-capped" area is any geographical area not officially served by a community action agency. An area officially served by a CAA is that area designated by the local government as such and recognized by CSA.

(e) *Catalytic Activity.* According to the dictionary, a catalyst is "a person or thing acting as a stimulus in bringing about or hastening a result". In this rule, "catalytic activity" means an activity which, through a modest investment of CFNP staff time and money, sets in motion a process or series of events which results, for low-income persons, in benefits that are far-reaching and whose value significantly exceeds the cost of the original investment. (See Appendix A, Section 3 for further clarification.)

(f) *Direct Service Delivery.* One-on-one activity (for example, outreach activity) whose purpose is to provide goods or services directly to low-income individuals or families. The provision of direct services can be a catalytic or non-catalytic activity. It is catalytic if it triggers a process that is carried forward by the individual, either on his own or with the assistance of groups or agencies other than the CFNP project. (See Appendix A, Section 3 for additional clarification.)

(g) *Advocacy.* According to the dictionary, an *advocate* is "one who pleads the cause of another" or "defends or maintains a cause or proposal." In this rule, advocacy means a type of catalytic activity which is directed at institutions or at the general public on behalf of low-income individuals in order to insure that, in the area of food and nutrition, the views of such individuals are heard, their rights are observed, the benefits to which they are entitled are provided and their needs are met (to the extent possible) by the institutions which have the ability or responsibility to meet those needs. Successful advocacy can bring about either *institutional change* (a change in

a law, regulation, policy, procedure, behavior or attitude affecting the low-income population) or a *mobilization of additional resources* (whether they be dollars or in-kind services) from public or private sources to support food and nutrition programs for the low-income population. (See Appendix A, Section 3 for further clarification.)

(h) *Monitoring.* Monitoring is a variety of advocacy. To "monitor" is to "observe critically". To monitor a program operated by another federal or state agency means to *observe critically* that program; to gather relevant information about its operations in order to make sure that it is adhering to relevant statutes and regulations in its delivery of services to low-income families and individuals; and where there are problems, to bring them to the attention of the administering agency and to assist that agency in finding a solution. (See Appendix A, Section 3 for further clarification.)

§ 1061.50–3 Purpose of the subpart.

This subpart sets forth CSA's policy for the Community Food and Nutrition Program (CFNP) authorized under section 222(a)(1) of the Economic Opportunity Act of 1964, as amended. It discusses the purposes and categories of activities, participant and applicant eligibility criteria, application procedures and reporting requirements. The Appendices provide additional information relating to funding for the current fiscal year and the process for reviewing, rating and ranking applications.

§ 1061.50–4 Introduction.

(a) Section 201(a)(1) of the Economic Opportunity Act of 1964 as amended states that the basic purpose of all title II programs, including the Community Food and Nutrition Program, is "* * * to *stimulate* a better focusing of all available local, State, private and Federal resources upon the goal of enabling low-income families and low-income individuals * * * *to become fully self-sufficient*" (emphasis added).

(b) This statement sums up CSA's historic mission which has been to serve as a *stimulator* or *catalyst* of activities conducted by other public and private institutions rather than as a provider of services in competition with these institutions. CSA's limited funds make it necessary, in any event, for CFNP projects to reduce their involvement in non-catalytic direct service delivery and to function primarily as advocates and catalytic agents.

(c) A second important point made in the statement quoted above is that the catalytic activity of Title II programs, including the CFNP, should be directed to helping the poor escape the cycle of poverty. The relevance of the CFNP to this objective is underscored by a report entitled "Dietary Goals for the United States" (2nd Edition) issued in February 1978, by the U.S. Senate's Select Committee on Nutrition and Human Needs. According to the report, an inadequate diet is a principal cause of six of the ten leading killer diseases—the six being diabetes, strokes and hypertension, heart disease, some cancers, arteriosclerosis and cirrhosis of the liver. An inadequate diet leads to unemployability and chronic dependence on public assistance programs. Hence, the importance of a concentrated attack on the problem of malnutrition among the poor.

§ 1061.50–5 Policy.

(a) Section 222(a)(1) of the Economic Opportunity Act authorizes: "A program to be known as Community Food and Nutrition designed to provide, on an emergency basis, directly or by delegation of authority pursuant to the provisions of Title VI of this Act, financial assistance for the provision of such supplies and services, nutritional foodstuffs, and related services as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be used to extend and broaden such programs to serve economically disadvantaged individuals and families where such services are not now provided."

(b) In its effort to "supplement and extend and broaden" other Federal food programs, the CFNP must not lose sight of the essentially *catalytic* nature of CSA's mission referred to in § 1061.50–4. Funds should be used primarily as seed money or in ways that have a multiplier effect and not for duplicative or long-term feeding programs. The emphasis on catalytic activity does not preclude the use of CNFP funds, in emergency situations, for the direct delivery of foodstuffs and related services to individuals and families within CSA poverty guidelines who are insufficiently served or not served at all by other programs. (See 1061.50–7(d)(4) below.) Benefits received under the CFNP shall not be considered as income for the purposes of determining eligibility for other federal food programs.

(c) Each CFNP project will be expected to include *advocacy* as an *essential* and *integral* element of both its design and implementation. While an applicant may select the program category (Access, Self-Help, Nutrition/Consumer Education, Crisis Relief) which best meets the needs of the poor in the community(ies) served, the element of advocacy should always be a part of whatever category is selected. Advocacy efforts should focus upon articulating the views and needs of the poor to the public at large but, more particularly, to those institutions and organizations which have the ability or responsibility to serve the poor. Advocacy efforts should not only include speaking *on behalf of the* poor, but helping the poor to articulate their own needs and to participate in activities which are designed to assure that the benefits to which the poor are entitled are provided. Advocacy should be aimed at initiating new programs to benefit the poor as well as improving and expanding existing ones.

(d) All CFNP projects will be expected to conform to as many of the purposes of Title II programs as possible (listed below in § 1061.50–6). CSA Instruction 7850–1a requires that each project must contribute to the achievement of one or more purposes. CSA is requiring in FY 79 that CFNP grantees meet at least three general purposes and one specific purpose. Applicants are advised that the rating criteria (See Appendices) include three of the five general purposes.

§ 1061.50–6 Purposes of program.

(a) The following are the purposes of Title II Programs, including the CFNP, listed in Sections 201(a) and 222 of the Economic Opportunity Act and reflected in CSA's general standards of effectiveness:

(1) *Planning and Coordination:* Strengthening community capabilities for planning and coordination so as to insure that available assistance related to the elimination of poverty can be more responsive to local needs and conditions;

(2) *Improvement of Service Delivery:* Better organization of services related to the needs of the poor;

(3) *Maximum Feasible Participation:* Maximum feasible participation of the poor in the development and implementation of all programs and projects designed to serve the poor;

(4) *Mobilization of Resources:* Broadened resource base of programs directed to the elimination of poverty so as to include all elements of the community able to influence the quality and quantity of services to the poor;

(5) *Innovative Approaches:* Greater use of new types of services and innovative approaches in attacking causes of poverty, so as to develop

increasingly effective methods of employing available resources.

(b) The following are legislatively mandated purposes of the Community Food and Nutrition Program (Specific Standards of Effectiveness):

(1) *Improvement in the nutritional status of the target population;*

(2) *Reduction in hunger among the target population.*

§ 1061.50–7 Program categories.

The categories of projects eligible for funding under the Community Food and Nutrition Program are listed in priority order as follows:

(a) *Access:* To improve the opportunities for low-income people to gain access to, and participate in, federal and non-federal food and nutrition programs. Activities eligible for funding under the "access" category include but are not limited to:

(1) The monitoring of programs conducted by other agencies and in particular monitoring the implementation by USDA and state and local governments of the Food Stamp Act of 1977, in order to insure compliance with relevant federal and state statutes and regulations;

(2) Seeking changes in federal and state statutes and regulations to insure a more equitable distribution of food and nutrition benefits to the poor;

(3) Stimulating through consultation with parents, school administrators and other officials, the establishment or expansion of various federally funded food programs such as: the School Breakfast and School Lunch Programs, the WIC Program, the Summer Food Service Program for Children, the Nutrition Program for the Elderly, etc.

(4) Participating with a state in the development of state plans, certification manuals, etc., for food and nutrition programs;

(5) Building coalitions to make possible community input into the improvement and implementation of programs which improve the nutritional status of low-income persons;

(6) Designing and carrying out strategies for obtaining matching funds for new and existing projects supported from CFNP funds, and for spinning off such projects to other agencies (e.g., projects funded under HEW and USDA such as Title XX or food stamp outreach);

(7) Catalyzing an expanded and more effective outreach program on the part of other agencies;

(8) Initiating, or stimulating the formation of, community education programs aimed at apprising low-income persons of their entitlements under federal and non-federal food programs;

(9) Stimulating efforts to provide the poor with assistance in prescreening and application procedures and with adequate representation in administrative hearings, etc.;

(10) Initiating, or stimulating the formation of, feeding programs (e.g., Meals on Wheels) which are urgently needed and are not being provided in the community, on the condition that significant mobilization of other resources and early spin-off of the project to a more appropriate agency is included in the application;

(11) Developing and seeking to get adopted innovative proposals to increase the amount of food available to the poor, e.g., tax incentives for food industry donations to the poor;

(12) Organizing consumer action relating to public and private sector food policies, food sales and sales taxes so as to lower costs for the poor;

(b) *Self-Help.* To impove the ability of low-income people to produce and purchase foodstuffs in a manner that fosters self-sufficiency. (Note: Applicants for Self-Help projects, which by design should ultimately become self-sustaining, e.g., food co-ops, buying clubs, and canneries, should include in their applications specific plans for the eventual phase-out of CFNP funding.) Activities eligible for funding under this category include but are not limited to:

(1) Conservation, distribution and utilization of foodstuffs, such as:

(i) Organizing family and community gardens;

(ii) Organizing food co-ops and buying clubs;

(iii) Establishing greenhouses, canneries, etc.;

(iv) Organizing food gleaning campaigns.

(Note.—A number of states have passed legislation providing a tax benefit for small unincorporated farmers who donate excess produce to organizations serving the low-income population; while similar legislation is being proposed in Congress)

(2) Activities which support self-help projects such as:

(i) Mobilizing the resources of state agriculture departments, land grant colleges, co-op extension services, USDA (e.g., the Agricultural Stabilization and Conservation Service), VISTA, CETA, etc., for obtaining seeds, plants, land, water and information;

(ii) Cooperating with land grant and other colleges to provide more assistance to small scale (even part-time) growers, etc.;

(iii) Promoting the utilization of unused federal, state, and local land for food production;

(iv) Seeking to change laws and regulations that impede the involvement of the poor in food production, processing and distribution, etc.

(c) *Nutrition and Consumer Education.* To improve, through catalytic activity in the area of nutrition and consumer education, the ability of low-income individuals and families to understand the connection between diet and health, to obtain at the lowest prices nutritionally superior foods and to prepare and preserve these foods in ways that minimize the loss of nutrients. Activities eligible for funding under this category include but are not limited to:

(1) Developing and demonstrating new and more effective techniques for communicating nutritional information to the poor;

(2) Stimulating the establishment by other agencies or institutions of educational programs to acquaint the low-income public with the potential benefits of altering food preparation and eating habits in the light of the "Dietary Goals for the United States" recommended by the U.S. Senate's Committee on Nutrition and Human Needs;

(3) Stimulating the establishment of educational programs to improve the ability of low-income individuals and families to understand written guidance on food selection and to make comparisons between foods based on nutrition labeling and price;

(4) Engaging in advocacy efforts to induce federal agencies such as USDA and HEW to design new (and redesign existing) nutrition and consumer education programs so they are more responsive to the needs of low-income consumers;

(5) Devising and carrying out strategies to insure that state nutrition education plans address the needs of children, teachers, and food service workers in schools and low-income communities and that advisory councils set up to oversee state nutritional education programs include representatives of the poor;

(6) Engaging in advocacy efforts to induce such private organizations as the American Dietetic Association, American Heart Association and American Diabetes Association etc., to direct more of their nutrition education activities to the poor, and to coordinate such activities with CSA's CFNP network;

(7) Engaging in research to determine the status and quality of nutrition education efforts aimed at the poor,

identify gaps in those efforts, and recommend ways in which CSA, CAA's and CFNP grantees should be involved in nutrition education.

(d) *Crisis Relief:* To improve community crisis relief mechanisms. Activities eligible for funding under this category include but are not limited to:

(1) Organizing food banks and food salvaging operations;

(2) Negotiating for improvement in public welfare systems for distributing, in natural disasters and widespread emergency circumstances, Emergency Food Stamps, WIC packages or vouchers, USDA commodities, local food bank resources, etc. Among federal agencies the U.S. Department of Agriculture, in conjunction with the Federal Disaster Assistance Administration, is responsible for the delivery of foodstuffs to needy households in disasters and other widespread emergencies.

(3) Assisting communities to improve their crisis relief programs so that those most in need will receive swift relief;

(4) Providing foodstuffs directly and/or issuing food vouchers, but only if at least one of the following conditions is satisfied:

(i) There is a temporary individual or family emergency and timely help is not forthcoming from other agencies or,

(ii) The provision of relief is a catalytic effort which includes a plan to establish a community-based entity which will provide such services in the future, or a plan to transfer the activities, within a specified period of time, to an agency which already has an assigned responsibility for providing foodstuffs, vouchers, etc. to the poor. A commitment from such an agency to take over the project should be included in the application, if possible.

§ 1061.50–8 Eligible participants.

(a) All activities supported from CFNP funds must be targeted on low-income individuals and families as defined in CSA Income Poverty Guidelines (§ 1061.2 or CSA Instruction 6004–1k and changes thereto). It is important to stress this since in the case of some programs, such as the Food Stamp Program and the National School Lunch Program, the persons eligible for benefits form a larger group than those who fall within CSA poverty guidelines. In such cases, the rule-of-thumb should be that a *majority* of the individuals or families served are within CSA guidelines.

(b) Individuals are eligible to participate upon a self-declaration of need without the delay of a "means test" or income investigation. Self-declaration of need makes possible immediate assistance for those suffering from hunger and in danger of malnutrition.

§ 1061.50–9 Eligible applicants.

(a) *General Community Projects.*

(1) Section 222(a) of the Economic Opportunity Act states that the Director shall provide financial assistance "* * * in a manner that will encourage, wherever feasible, *the inclusion of assisted projects in community action programs* * * *" (emphasis added). In addition, Section 222(a)(1) of the Act required that the Director carry out the CFNP "* * * in a manner that will insure the availability of * * * supplies and services, nutritional foodstuffs and related services *through a community action agency where feasible*, or other agencies and organizations if no such (community action) agency exists or is able to administer the program) * * *" (emphasis and parentheses added).

(2) Therefore community action agencies (CAA's) will be regarded as *prime sponsors* of projects utilizing general community funds. Any other organization desiring to operate a project in a geographical area served by a CAA must do so as a delegate agency of the CAA. If such organizations are unable to work out a delegate agency agreement with the CAA, then they may apply *directly* to the appropriate Regional Office of CSA. However, such applications will be considered *only if* the CAA does not submit a proposal, or submits a proposal which is not funded. (The deadline for submission of applications by prospective delegate agencies outlined in paragraph 2 of CSA Instruction 6441–1 do not apply to this program.)

(3) Other public and private, non-profit organizations, including SEOO's and CAP Associations, which meet CSA's general eligibility criteria may apply directly to the appropriate CSA regional office for general community funds to operate projects in geographical areas not served by CAA's ("un-capped areas").

Note.—This paragraph does not preclude CAA's from operating projects outside their officially designated boundaries where they are otherwise legally permitted to do so.

(4) SEOO's and CAP Associations may not apply as conduits for other applicants when the purpose or effect of such an arrangement is to allow those applicants to avoid the competitive process.

Note.—As an exception to CSA's general policy, an SEOO may apply as a conduit for other applicants within a state where the following conditions are met: (i) the applicant has CSA's written advance approval, (ii) the low income residents of the area to be served were involved in the planning of the project, and (iii) two or more of the following activities are carried out on a statewide basis: (A) advocacy, (B) improved planning and coordination, and (C) mobilization of a broader range of resources. In such a case the complete work programs and budgets of the delegate applicants must be submitted to CSA along with the conduit application.

These applications will then be reviewed, rated and ranked on a competitive basis like any other application, and they must receive a minimum score of 65 points in order to be considered eligible for funding. Likewise the work program and budget of the conduit will be rated and must receive a minimum score of 65 points.

(5) CAA's and anti-hunger groups are strongly encouraged to work together where possible. This can take the form of a CAA's delegating part or all of its work program to an anti-hunger group, or vice versa; close and systematic coordination on the part of both groups in the planning, implementation and evaluation of CFNP projects; and *close collaboration in the development of state anti-hunger strategies.* The formation of such alliances contributes to at least *one* of the general standards of effectiveness (planning and coordination) and in most cases will contribute to more.

Note.—CAA's must indicate in their applications the efforts which have been undertaken to involve various community groups and organizations—including anti-hunger organizations—in the planning and implementation of their proposed activities. In the rating and ranking of applicants points will be given to applicants who furnish evidence that such coordination has taken or will take place.)

(b) *Special Support Projects.*

(1) Public and private non-profit organizations which meet CSA's eligibility criteria—other than CAA's, SEOO's, and CAP Associations—may apply for special support funds.

(2) Special support projects must be designed to have a *broad impact* on the problems of hunger and malnutrition among the poor, i.e., an *impact* that extends beyond the boundaries of particular communities. The objective of special support projects is to assist in the development, coordination and expansion of food and nutrition programs for the poor and/or engage in advocacy efforts to improve those programs on a statewide or multi-state basis.

(3) Special support projects must relate to one or more of the four program categories outlined in § 1061.50–7.

Special support activities may include but are not limited to:

(i) Developing or strengthening statewide or multi-state anti-hunger coalitions and task forces;

(ii) Monitoring and interpreting changes in relevant federal and state laws, regulations, and procedures;

(iii) Developing or improving statewide food and nutrition information centers or clearinghouses;

(iv) Initiating and/or stimulating the provision by others (e.g., grantees of the National Legal Services Corporation) of legal services aimed at improving the delivery of food and nutrition services to the poor.

(v) Providing assistance to low-income individuals or their representatives to attend meetings and conferences on food and nutrition issues, etc.

Note.—In making funding decisions on applications for special support funds, CSA will give preference to applicants (a) who propose to initiate or strengthen *statewide* anti-hunger coalitions which will address a broad range of hunger problems and issues and (b) whose governing boards include low-income residents or their duly elected representatives as well as *representatives of community action agencies* and other appropriate institutions and organizations which have a concern for the nutritional status of low-income families and individuals.

(4) Applicants must show evidence of successful experience and competence in carrying out the kinds of activities described above. *In addition, applicants must indicate on their applications how CAA's have been involved in the planning of their projects and how they intend to coordinate their proposed activities with CAA's in, or adjacent to the areas they propose to serve, other CFNP grantees and the SEOO in the state(s) to be served.*

(c) *Regional Training and Technical Assistance (T&TA) Projects.*

(1) Public and private nonprofit organizations and agencies which meet CSA's general eligibility criteria may apply for Regional T&TA funds. Regional T&TA providers may operate on either a regionwide or subregional basis.

(2) Applicants for Regional T&TA projects must present in their applications a detailed statement of the following:

(i) The kinds of T&TA they propose to deliver;

(ii) How they intend to go about it;

(iii) A timetable for the delivery of such;

(iv) The results they expect to achieve; and

(vi) How they plan to evaluate results.

(3) T&TA applicants must indicate how they will assist CFNP grantees to achieve or carry out the major policy initiatives of the CFNP, such as:

(i) Shifting the emphasis from service delivery to catalytic activity;

(ii) Undertaking advocacy as a major component of each CFNP project;

(iii) Effective techniques of mobilizing public and private resources, and

(iv) Coordinating activities with other institutions and organizations involved in anti-hunger efforts.

(4) In the area of program planning and management, T&TA applicants must indicate how they will assist CFNP grantees in more precisely determining the nutritional problems and needs of low-income individuals, how to set priorities, establish realistic goals, design project strategies, and evaluate results.

(5) T&TA applicants must indicate in their proposals an understanding of the four program categories described in § 1061.50–7 and an ability to assist CFNP grantees in carrying out the activities listed there. This presupposes that the applicant has an expert knowledge of the various federal feeding programs (such as Food Stamps, School Breakfast, School Lunch, WIC, Day Care Food, Nutrition Program for the Elderly, etc.) and the ability to communicate such knowledge to CFNP grantees.

It also presupposes on the part of the applicant successful experience in such activities as:

(i) How to organize coalitions and effectively conduct campaigns or other activities to initiate or expand the various federal feeding programs listed above;

(ii) How to stimulate the establishment of more effective outreach efforts by the agencies which administer these programs;

(iii) How to "monitor" such programs to assure their compliance with relevant statutes and regulations;

(iv) How to organize family and community gardens, food co-ops and buying clubs, etc. and assist them to become self-sustaining;

(v) How to train low-income residents to seek and obtain assistance from agencies which have a responsibility to serve them (such as agricultural extension services) or to speak on their own behalf in seeking benefits from agencies (e.g. Food Stamp "fair hearings");

(vi) How to help CFNP grantees engage in advocacy efforts to induce federal and state agencies to design new and redesign existing nutrition education programs so they are more responsive to the needs of low-income consumers; and

(vii) How to organize community food banks supported and sustained by a variety of resources in the community at large to meet the emergency needs of low-income individuals and families.

Note.—This list is *illustrative* and not exhaustive of the fields of expertise which may be required of the T&TA provider.

(6) T&TA applicants must not only show evidence of successful experience and competence in carrying out the kinds of activities described above, they must indicate how they will coordinate their activities with the CSA regional office, the SEOO's, special support projects and national T&TA providers. In addition they must, as soon as possible after funding decisions are reached, review the propoals of the FY 79 CFNP grantees (within their areas of coverage) and revise their work programs, in consultation with the Regional Offices, so as to more precisely meet the needs of CFNP grantees in FY 79.

(d) *Headquarters Training and Technical Assistance (T&TA) Projects and Research and Demonstration (R&D) Projects.*

(1) Public and private nonprofit organizations or agencies which meet CSA's general eligibility criteria may apply for headquarters T&TA and R&D funds.

(2) As distinct from regional T&TA projects, headquarters T&TA projects will focus on grantee needs that are common to a number of regions or require a national strategy. In addition headquarters T&TA projects may be required to address the needs of other projects administered directly from headquarters, e.g., migrant conduits.

(3) The objective of R&D projects is to develop new knowledge or demonstrate new hypotheses relevant to the solution of the problems of hunger and malnutrition among the poor. Activities proposed in applications for R&D funds should relate to activities described under the four program categories defined earlier in this subpart but should emphasize new and untried approaches to solving problems of hunger and malnutrition and potential solutions so as to have maximum impact on these problems nationwide.

(e) *Migrant Projects.* Farmworker-governed organizations which meet CSA's eligibility requirements may apply for funding under this category. Migrant conduits and other applicants proposing activities of a national or multi-regional scope will apply directly

to CSA headquarters and will be exempt from the competitive process.

Applicants proposing to operate local projects, and which meet CSA's eligibility criteria (preferably farmworker-governed organizations), may apply as sub-contractors to the appropriate migrant conduit. Applicants applying as sub-contractors of the migrant conduits will follow the procedures outlined in § 1061.50–11 and Appendix A. Their applications will be reviewed, rated and ranked by the migrant conduits on the basis of the criteria listed in Appendix D. The funding process will be competitive, with applicants with the highest scores being given funding preference.

Note.—Applicants for local migrant projects will be required to achieve the minimum score of 65 points in order to be considered eligible for funding. However, CSA may waive this requirement in unusual circumstances where such is necessary in order to serve the most needy migrant populations.

(f) *Indian Projects.* Indian groups whose governance is controlled by the populations to be serve are eligible to apply for Indian project funds. This includes Indian nations, tribes, bands, pueblos, or other organized groups or communities, including Alaskan Native villages as defined in the Alaskan Claims Settlement Act who are either indigenous to the United States or who otherwise have a special relationship to the United States, or a state, through treaty agreement, executive order, law, court order, or administrative action of the Department of Interior, except as otherwise provided by federal law. Urban Indian groups are eligible to apply for funds under this category. Applicants for Indian projects should submit their applications to the appropriate CSA regional office and should follow the application procedures outlined in § 1061.50–11 and Appendix A. Their applications will be reviewed, rated and ranked according to the criteria in Appendix C and the funding process will be competitive, with funding preference being given to applicants with the highest scores.

Note.—The CSA review panels for Indian projects will include Indians and Indian applicants will be required to achieve the minimum score of 65 points in order to be considered eligible for funding. However, CSA may waive this requirement where such is necessary in order to serve the most needy Indian populations.

§ 1061.50–10 Funding.

(a) *Non-Federal Share.* The non-Federal share is waived for CFNP projects (see § 1068.20 or CSA Instruction 6802–3a). However, grantees are expected to mobilize local and state resources throughout the life of the project.

(b) *Federal Share.* Federal share as matching funds granted under section 222(a)(1) may be used to match USDA funds to support food stamp outreach projects, as well as nutrition projects for the elderly funded under Title XX of the Social Security Act as amended.

(c) *One-time funding.* Applicants should note that funds awarded for CFNP projects are provided on a one-time only basis. Therefore applicants should apply for projects which can be successfully completed within the proposed funding period or which will be continued beyond the funding period with funds from other sources. There is no stated or implied obligation or commitment on the part of CSA to refund any project. Consequently, applicants should inform their employees, beneficiaries and the local community that this funding is on a one-time basis in order that they may prepare for the possibility that an application for funding under CFNP in a subsequent year may not prevail in the competitive process.

§ 1061.50–11 Application procedures.

(a) *Required forms and documents.*

(1) SF 424: Federal Assistance (See CSA Instruction 6710–3a) This form initiates the A–95 clearinghouse process.

(2) OEO Form 395: Eligibility Documents (See CSA instruction 6710–1 CH 11. Note: All applicants are required to have on file with CSA the following documents in order to establish eligibility to receive CSA funds. Current grantees should check to make certain these documents are up-to-date, making changes where necessary and resubmitting. New applicants should submit them either prior to or along with the submission of their formal applications.)

(i) Articles of Incorporation (See CSA Instruction 6710–1 CH 11)

(ii) By-laws or Rules of Organizations (See CSA Instruction 6710–1 CH 11)

(iii) Personnel Policies and Procedures (See 6900 series of CSA Instructions)

(iv) Biographic Data on Key Staff (See Instruction 6710–1 CH 11)

(v) Statement of Accounting System (CSA Form 380—see OEO Instruction 6801–1)

(vi) Current Bond (See CSA Instruction 6800–3)

(vii) Participation of the Poor (See OEO Instruction 6005–1)

(A) List of current Board Members (CAA's only—See OEO Instruction 6400–01, 02)

(B) List of Policy Advisory Committee Members (LPA's Only—See OEO Instructions 6005–1)

(viii) Applicant Cerifications (CSA Form 301—New applicants only)

(ix) Certification of Applicant's Attorney (OEO Form 393—New applicants only—See Instruction 6710–1 CH 11)

(3) Project Narrative (See Appendix A)

(4) OEO Form 419: Summary of Work Program & Budget (See CSA Instruction 6710–1 CH 11)

(5) CAP Form 25 & 25a: Program Account Budget and Support Sheet (See OEO Instruction 6710–1)

(6) CAP Form 84: Participant Characteristics Plan (See OEO Instruction 6710–1)

(7) OEO Form 394: Checkpoint Procedure for Coordination (*Optional.* Applicants are encouraged to use this form to indicate coordination linkages and agreements with local agencies. However, if the question of coordination is adequately addressed in the project narrative; the applicant need not include this form. See Instruction 6710–1 CH 11.)

(8) CAP Form 440: Program Progress Review Report (See CSA Instruction 6800–9. Note: Although this form is not an application document, and not normally required with an application, CSA is requiring an up-dated Form 440 from applicants currently operating CFNP projects.)

When Delegating Projects

(9) CAP Form 85: Administering Agency Funding Estimate (See OEO Instruction 6710–1)

(10) CAP Form 87: Delegate Agency Basic Information (See OEO Instruction 6710–1)

(11) CAP Form 11: Assurance of Compliance with Civil Rights (See OEO Instruction 6710–1)

(12) OEO Form 280: Agreement for Delegation of Activities (Self-explanatory)

(b) *Clearinghouse review.* (A–95). Applicants are reminded that they must comply with the requirments of OMB Circular A–95 (See CFR § 1067.10 and/or CSA Instruction 6710–3a), including the following:

(i) Ordinarily, applicants must, at least 60 days prior to the actual submission of applications to CSA, notify through the SF 424 the appropriate clearinghouses of their intent to apply. In order to comply with this requirement, applicants were urged in the proposed rule (**Federal Register**, March 8, 1979) to initiate the clearinghouse process on or about April 1. Since OMB has granted a procedural

variation for fiscal year 1979 (Administrative Note No. 9, Dated May 7, 1979), applicants who have not yet submitted their letters of intent to the clearinghouses may still do so, *but not later than May 30, 1979.* Applicants are urged to notify the clearinghouses of their intent immediately. They should also alert the clearinghouse of the deadline for the submission of applications to CSA and request, in view of the short time frame, that clearinghouses wishing to review an application notify the applicant promptly and expedite their review process as much as possible once the formal application is submitted to the clearinghouse.

(ii) Where the clearinghouse, in response to the notification of intent to apply, indicates that it wishes to review and comment on the application, applicants should forward applications to the clearinghouse as soon as possible. Applicants normally are required to submit the comments of the clearinghouse along with their applications to CSA. However, some, if not most applicants, will not be able to submit their applications to the clearinghouses in time for clearinghouse review and comment *before* the deadline for submitting applications to CSA. In order not to impose an impossible burden on both applicants and the clearinghouses, CSA has requested, and OMB has granted, *a procedural variation for FY 79* which will permit concurrent review of applications by CSA and the clearinghouses. Therefore, applicants who are unable to attach clearinghouse comments at the time of submission of their applications to CSA, should request the clearinghouse to send their comments directly to CSA headquarters or the appropriate CSA regional office. Only comments received from the clearinghouses by August 6 will be considered. Funding decisions will be announced by August 10.

(iii) Applicants proposing *statewide* projects need only submit their proposals to the state clearinghouse for review. Such applicants should indicate in writing to the state clearinghouse that their proposed project is statewide and will not be submitted to area clearinghouses. Applicants serving as conduits must submit the applications of their delegates or sub-grantees to the appropriate area or state clearinghouses if their application will be part of such conduits' application to CSA. Indian applicants who are part of a federally recognized tribal government or local sub-unit of such tribal governments are not required to submit their applications to area or state clearinghouses but are encouraged to coordinate with the appropriate clearinghouses.

Migrant conduits are responsible for submitting subcontractor or delegate agency applications to the state clearinghouses for review pursuant to the procedural variation of the A-95 process granted by OMB. Migrant procedures for clearinghouse coordination were explained directly to the conduits in a letter dated May 8, 1979. Applicants may obtain clearinghouse addresses from the appropriate CSA Regional office or, in the case of applicants for projects of national scope, CSA headquarters.

(c) *Where to Apply.*—According to category of project send applications to:

General Community: Appropriate CSA Regional Office.

Special Support: Appropriate CSA Regional Office.

Regional T&TA: Appropriate CSA Regional Office.

Headquarters T&TA: CSA Headquarters.

Migrants: Migrant conduits and applications with a multi-state or national scope, CSA Headquarters. Applicants proposing projects of a local nature apply to appropriate migrant conduit (see Appendix H).

Indians: Appropriate CSA Regional Office.

§ 1061.50-12 Reporting requirements.

Grantees will follow the financial and project reporting requirements outlined in CSA Instructions 6800-8 and 6800-9 respectively.

Note.—As provided in CSA Instruction 6800-9, CSA is waiving the requirement that CAAs submit the self-evaluation of CFNP projects with the 440 submitted for PA 01. For this program 440s will be submitted semi-annually and annually based on the effective date of the CFN grant.

§ 1061.50-13 Current fiscal year application and review information.

The appendices to this subpart provide additional information relevant to funding CFNP projects in the current fiscal year.

Appendix A—Fiscal Year 1979 Funding Process

1. Timetable for Accepting Applications

Applications will be accepted from the effective date of the final rule through June 30, 1979. Applications postmarked later than June 30th will not be accepted. Exception: Migrant conduits will be notified by letter of the deadline for submission of their applications and those of their sub-contractors.

2. Fiscal Year 1979 Program Category Priorities

The program categories listed in § 1061.50-7 are listed in priority order: (1) Access, (2) Self-Help, (3) Nutrition/Consumer Education, and (4) Crisis Relief. While no minimum funding percentages or bonus points are being assigned to any of the categories, it is hoped that each state will develop strong projects in the "Access" category since activities in this category are known to have, in general, the greatest impact on the problem of hunger and malnutrition among the poor.

In developing their proposals, applicants should take into account not only national priorities but also local needs. If the poor in a particular locality—and not merely "self-appointed representatives" of the poor, or those administering programs for the poor—believe that projects in categories other than Access are more suitable or address a more urgent need than Access projects, then such projects may be given a higher priority and applicants will not be penalized for their choice. However, the applicant must document the ways in which and extent to which low-income residents were involved in selecting a particular priority.

While applicants may select the program categories that best meet the needs of the poor served by them, projects in all program categories are expected to be *catalytic*, to contain a *strong advocacy thrust*, and to *mobilize significant other resources.* These three factors account for a substantial number of the total points in the rating criteria and failure to include them as essential elements in a project proposal may result in a applicant not being funded.

3. Further Clarification of the Key Terms—"Catalytic Activity", "Advocacy", "Direct Service Delivery" and "Monitoring"—Defined in § 1061.50-2

Contrary to the interpretation of some, the intent of the FY 1978 CFNP rule was not to completely eliminate direct service delivery from the CFNP, in favor of catalytic activity and advocacy. The intent was rather to shift the *emphasis* from non-catalytic to catalytic activity in general and from direct service delivery to advocacy in particular.

Part of the confusion arose from the failure of the rule to make clear that direct service delivery can, under some circumstances, be truly catalytic. Consistent with the intent of last year's rule, the CFNP rule for 1979 makes explicit two assumptions: (1) that not all catalytic activity is advocacy and (2) that some forms of direct service delivery can be catalytic. These assumptions can be diagrammed as follows:

	Activity Aimed at Individuals	Activity Aimed at Institutions
CATALYTIC	DIRECT SERVICE One-on-one activity (for example, some types of out-reach activity) whose purpose is to deliver goods or services to low-income individuals and families in such a manner as to trigger a process that is carried forward by the recipient, either on his own or with the assistance of groups and agencies other than the CFNP project.	ADVOCACY Activity whose purpose is to insure that the views of low-income individuals and families are heard, their rights observed, the benefits to which they are entitled are actually provided and their needs met to the extent possible, whether this is achieved by a change in a law, regulation, policy, procedure or attitude or by leveraging additional public or private resources.
NON-CATALYTIC	DIRECT SERVICE One-on-one activity (for example, some types of outreach activity) whose sole effect is the delivery by a CFNP worker of goods or services to low-income individuals and families.	Activity which results in CFNP staff being co-opted into performing, without reimbursement, services which are properly the the responsibility of another group or agency.

Direct Service as a Catalytic Activity

Although providing one-on-one service makes little sense in the context of advocacy and coalition-building at the state level and even less sense at the level of the national anti-hunger groups and T&TA providers, such service is important at the level at which community action agencies operate. A local CFNP project which completely severs the service link between its staff and low-income individuals, not only risks a loss of credibility in the community but is depriving itself of one of its richest resources, first-hand knowledge of the nutritional problems of those the CFNP is ultimately intended to benefit. In addition, the one-on-one relationship created through out-reach activity at the local level has two other consequences which are vital for the success of the CFNP: (1) by enhancing the opportunity to involve recipients of services in the planning and implementation of programs set up to serve them, it contributes to the achievement of the overall goal of Title II programs—self-sufficiency—and (2) it makes possible the kind of grass-roots support needed for really effective advocacy at the state and national levels.

However, as indicated earlier (§ 1061.50–4 (a) and (b) above), the same passage of the EOA which establishes the goal of self-sufficiency, points to *catalytic* activity as the principal means of achieving this goal. This should not be construed as ruling out one-on-one service. If the delivery of a direct service by a CFNP worker to a low-income individual produces a benefit which has a continuing and expanding effect on that individual and others, even after the reduction or termination of direct CFNP support, then the delivery of that service qualifies as a catalytic activity. Non-catalytic service delivery, on the other hand, should be kept to a minimum, be provided on a temporary or emergency basis only and be supported wherever possible from local initiative funds. The intent of the EOA is reinforced by a practical consideration: the very limited funding of the CFNP. The fact that the CFNP budget is only 3/10ths of 1% of the total federal food outlay suggests not only that most of the direct service provided should be of the catalytic variety, but that there should be a very strong emphasis on that type of catalytic activity known as advocacy.

Advocacy as a Catalytic Activity

It can be inferred from the statement of the five purposes of Title II programs (see § 1061.50–6) that the two most important objectives of the CFNP are the mobilization of resources and institutional change. The techniques used to bring about these two results are what is meant in this rule by the term "advocacy". Because advocacy, unlike catalytic activity of the direct service variety, is aimed at institutions and the general public, it obviously has the potential for producing far greater dividends for the low-income population than direct service.

The intent of the rule is that an advocacy component be built into *each project* but not necessarily into each project activity. For example, a self-help project may include as one of its activities the provision of seeds and technical assistance to low-income gardeners. The catalytic potential of this one-on-one service could be greatly increased if the project were to include a specific plan to induce other public or private institutions to make land available and assume at least part of the burden of providing seeds and technical assistance.

It may be difficult and sometimes impossible to score successes in local advocacy activity. But the rule calls on all local project operators to make a *bona fide* effort in this direction. It is especially important, in this era of dwindling public funds, to engage in vigorous *private sector* advocacy. Grantees inexperienced in advocacy techniques should seek help from the CFNP's regional and national T&TA providers.

The following examples may help to further clarify what is meant by catalytic direct service, advocacy, etc., and how these different activities can be combined in one project:

1. *Under Access.* a. *Direct Service.* Any one-on-one direct service activity in the Access category can be considered, for the purposes of this rule, to be catalytic. For example, an activity which is catalytic and therefore quite acceptable is searching out low-income persons eligible for food stamps, alerting them to their entitlements and referring them to the local certification office for additional counseling and enrollment in the Food Stamp program. Another example is representing an applicant for food stamps at a local or state-level hearing. Some activities, however, are more catalytic than others, that is, they produce an even greater return for the dollars invested. For example, a CFNP project, instead of directly representing individuals at Food Stamp hearings, may help low-income individuals learn the techniques needed to enable them to speak for themselves at Food Stamp hearings and to organize and train others to do the same. The most catalytic approach of all is the advocacy approach.

Advocacy. Examples of advocacy in the Access category are: (1) working out arrangements with a grantee of the national Legal Services Corporation to provide one-on-one legal counseling and representation for food stamp recipients experiencing difficulties with welfare offices; (2) monitoring of local welfare offices to insure that they comply with USDA regulations so that clients obtain the benefits to which they are entitled; (3) organizing a corps of county volunteers to provide elderly food stamp recipients with support services, such as transportation to food stamp outlets and grocery stores; (4) disseminating information locally on the national School Breakfast

Program and seeking to persuade local officials and school board members to institute breakfast programs in schools serving low-income communities.

2. *Under Self-Help.* a. *Direct Service.* Any one-on-one direct service in the Self-Help category is catalytic. For example, the provision of seeds and T&TA to low-income gardeners not only stimulates them to pursue an activity which promotes self-sufficiency (the goal of all Title II programs), but the gardeners, by investing their own labor at no cost to the project, are able to produce and preserve food whose value far exceeds the cost of the seeds and T&TA. Nonetheless, a gardening project becomes catalytic in the full sense if, in addition to providing seeds and T&TA, it includes a strong advocacy component.

b. *Advocacy.* Examples of advocacy in the Self-Help category are: (1) negotiating with USDA's Extension Service or other public or private agencies to provide seeds and on-going T&TA for low-income gardeners; (2) persuading a local government to change its regulations governing the use of vacant land so as to make it available for family and community gardens; (3) negotiating with local governments to remove barriers, resulting from local ordinances or regulations, to the establishment of farmers' markets and food co-ops.

3. *Under Nutrition/Consumer Education.* a. *Direct Service.* As in the case of "Access" and "Self-help" activities, it is hard to think of a direct service activity in the "Nutrition Education" category which does not have some catalytic effect. For example, there is surely some multiplier effect in the activity of teaching a group of low-income individuals how to compare foods and shop wisely, in terms of nutritional content or price or both. But given the fact that other agencies have been furnished federal monies to carry out nutrition education activities, a more cost-effective expenditure of limited CFNP funds would be on advocacy activities relating to nutrition education.

b. *Advocacy.* Examples of advocacy in the Nutrition Education category are: (1) working with USDA's Extension Service or with other appropriate state agencies to insure that federally-financed nutrition education programs are, to the extent provided for under the law, designed for and directed at the low-income population; (2) organizing groups in the low-income community to monitor in local retail food outlets price increases that exceed Administration inflation guidelines.

4. *Under Crisis Relief.* a. *Direct Service.* Most direct service activity in the Crisis Relief category is non-catalytic, for example, issuing emergency food vouchers, paid for by CFNP funds, to a family in need.

b. *Advocacy.* Examples of advocacy in the Crisis Relief category are: (1) spinning off a currently CAA-operated food voucher program to a community coalition that raises funds to carry on the program independently of CAA subsidy; (2) negotiating with USDA, the Federal Disaster Assistance Administration, church and civic groups and local government entities to establish a mechanism in the community that will insure prompt distribution of foodstuffs to low-income individuals in emergency situations; (3) monitoring the operation of a local food stamp program to insure that the new USDA regulation is followed which cuts food stamp issuance time for a destitute individual or family to the same day the application is filed (the so-called "same-day-service").

Monitoring

The Statutory authority for CSA's and CSA grantees' monitoring of other federally-administered programs is found in Title IX of the Economic Opportunity Act which states: "The Director shall, directly through grants or contracts, measure and evaluate the impact of all programs authorized by this Act and of poverty-related programs authorized by other Acts, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services * * *".

Since the USDA is the principal operator of federal food programs, the bulk of CFNP monitoring activities will be aimed at programs operated by USDA at the state and local level. Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services, USDA, in commenting upon last year's proposed CFNP regulations, recognized and supported this critically important role of CSA's CFNP grantees. Having stated her commitment to improve the operation of USDA's food programs she said:

"We need support and, I am not afraid to admit, pressure. * * * we need the help and expertise of CFNP grantees. We can write the rules and publish guidelines, but we cannot peer into every community in this land to see how our programs reach people. We need to see how the programs function and receive guidance as to how they can be improved. *CFNP must see this function as its major responsibility.* There must be informed and aggressive actions state-wide and in communities across the country to *monitor* program implementation, to help governmental agencies do their jobs and, where necessary, insure that the law is enforced. Certainly we intend to improve our capacity to aid in this process, but most of this work must be undertaken locally where only CFNP, and the volunteer work of other civic organizations, can truly be effective." (emphasis added)

Thus the monitoring role of CFNP grantees has not only been recognized by USDA, it has been strongly encouraged, and the letter of Ms. Foreman in response to this year's proposed rule, quoted earlier in the preamble, underscores once again its importance.

It should be emphasized that the type of monitoring described above is *not* the same as the monitoring and oversight functions that USDA and other federal agencies, by law, must *themselves* carry out to insure that programs they administer comply with relevant statutes and regulations, are managed soundly, and achieve the purposes for which they were instituted. Therefore, in carrying out this function, CFNP grantees should carefully avoid conveying the impression that they are supplanting or usurping the monitoring functions proper to these other agencies.

4. Review Process

The review process for applications except Headquarters applicants will be competitive, i.e., each application will be reviewed, rated, and ranked according the the criteria published in Appendices B and C, with funding preference being given those with the highest scores. Unlike last year, applications will be reviewed, rated and ranked in their entirety, rather than by program category. Each applicant must score a minimum of 65 points in order to be funded. An applicant who scores the minimum points *may* be funded, if funds are available, but funding is not guaranteed.

The review process for all applications will be undertaken by the office to which applications are submitted as indicated in § 1061.50–11 of this subpart. Regional Offices and Migrant conduits' ratings, rankings and favorable or unfavorable funding decisions will be reviewed by CSA Headquarters before decisions become final. Applications from conduit organizations must include copies of the applications from the sub-contractors or delegate agencies to which the conduit is redistributing CFNP funds.

4. Notification and Appeals

CSA will complete its funding decision and mail notifications of results to all applicants on August 10, 1979. The letter of notification will indicate whether the applicant was selected for funding, and will give the applicant's score and rank standing. If an applicant believes that the score assigned was unfair or that an incorrect decision regarding eligibility was made, the applicant may request additional information about the decision or may file a written appeal to the CSA Regional Director. The applicant has until August 20 to file an appeal. The appeal should state succinctly why the applicant believes the decision of CSA to be incorrect or unfair. The Regional Director will promptly schedule a meeting with the applicant, hear the applicant's complaint, provide any additional pertinent information as to why the applicant was not funded, and present a written decision on the appeal to the applicant by September 7, 1979. The decisions of the Regional Directors will be final with respect to regional appeals. Migrant subcontractors will follow the same procedure outlined above except that their appeals will be made to the appropriate Migrant Conduit's Executive Director whose decision will be final. There will be no appeals process for CSA Headquarters applicants since they are not funded on a competitive basis.

5. CSA Form 419 and Project Narrative

All applicants for CFNP funds are required to submit a CSA Form 419 (Summary of Work Program and Budget). Since funds for most applicants will be awarded on a competitive basis, it is absolutely essential that applicants provide, through the Form 419 and project narrative, as complete and specific a picture as possible of *what* they propose to do and *how* they intend doing it. In preparing the narrative, applicants should refer to the discussions in the rating criteria in the following section.

Note: The consistency of a project with legislative purposes (General Standards of Effectiveness) is dropped from the rating criteria for FY 1979. This does *not mean* that the requirement to conform to those purposes is being eliminated or is of less importance. On the contrary, it means that the requirement to conform both to the General Standards of Effectiveness and the Specific Standards of Effectiveness described in § 1061.50–6 must be met *in order for an applicant to be considered eligible for funding.*

Therefore, applicants must not only list in Item 11 of CSA Form 419 the standards which are being met in each program category, they must describe in the project narrative exactly how the standards will be addressed. In other words, in addressing the General Standards of Effectiveness, the applicant must show how the project will (1) strengthen the community's planning and coordination capabilities, and/or (2) improve service delivery systems, and/or make use of innovative approaches, and/or (4) involve maximum feasible participation by the poor in the planning and implementation of the project, and/or (5) mobilize a broad range of resources.

In addressing the specific standards of effectiveness applicants must list on the Form 419 the particular standard which is being met and describe in the project narrative the extent to which the project will result in (1) improvement in the nutritional status of the target population or (2) reduction in hunger among the target population. Projects that do not meet a minimum of *three* of the general standards of effectiveness and one of the specific standards *will not be considered eligible for funding.* In order to expedite the review process applicants are requested to identify in the project narrative their discussion of the standards of effectiveness with the heading:

Standards of Effectiveness Addressed:

In keeping with the President's efforts to keep down inflation, each applicant shall include in the project narrative a statement indicating what efforts are being made both to keep down project costs and to help low-income citizens cope with rising food costs.

6. Rating Criteria

In preparing the Form 419 and project narrative, applicants should keep in mind the seven criteria (discussed below) which will be used by CSA reviewing teams in rating and ranking applications.

(a) *Participation of the Poor.* Fundamental to all CSA-funded programs, including the CFNP Program, is the requirement that low-income residents in the areas to be served be substantively involved in the planning, conduct, and evaluation of projects at the community level. The minimum requirements for the participation of the poor are spelled out in OEO Instruction 6005–1 and all applicants are advised to review it carefully. (Note: Limited Purpose Agencies are reminded that they must "have either a governing body made up of one-third representatives of the poor or a policy advisory committee composed of at least 50 percent democratically selected representatives of the poor being served by the CSA-funded program".)

Although participation of the poor is an *eligibility requirement,* it is included in rating criteria for FY 1979 in order to highlight the added emphasis that is being placed on it in the Community Food and Nutrition Program and to enable CSA to make a judgement about the *quality* of an applicant's efforts to secure such participation. Thus, applicants will be rated on (a) the extent to which they have involved the low-income residents of the areas to be served in the planning of the project—including the selection of goals and priorities—and (b) the ways in which the poor will be involved in operating and evaluating the project.

(b) *Needs/analysis.* The first criterion—the analysis of needs—refers to the initial step in the planning process which lies behind the project described in the Form 419 and project narrative. CSA Instruction 6710–1, change 11, requires Title II grantees to develop and maintain planning documents which contain, among other things, an analysis of the particular needs the project is addressing.

The needs analysis must describe the *nature* and *extent* of the problems of hunger and malnutrition among the poor in the community the project will serve. The analysis should indicate what *efforts are currently being undertaken* to meet those needs, what *gaps or shortfalls there* are in these efforts and the *extent to which* the needs or *problems remain unmet* or unsolved. The applicant should clearly identify, among the range of needs listed, the precise need(s) the proposed project will address. Appropriate statistics to document the need(s) should be supplied—for example, the number of persons participating in the food stamp program as compared with the number of eligible persons not participating, or the number of children in need of but not receiving school breakfasts, or the number of families which could benefit from a gardening project, or the number of persons in need of emergency food assistance.

The needs analysis must indicate which of the problems described will be addressed and why these particular problems (priorities) were selected. If the applicant is addressing other problems and needs of low-income persons, the needs analysis should indicate the order of priority which the problem of hunger and malnutrition has among those needs and should include a description of the types and level of resources already committed to solving that problem. (Community Action Agencies should indicate the amount of local initiative funds, as well as other resources, which are currently being applied to anti-hunger activities.)

(c) *Adequacy of work program and budget.* The second criterion—the adequacy of the work program and budget—refers to the project goals, activities, and budget described in the Form 419 and project narrative. The project goals (item 11 of Form 419) should be stated in *specific* and *measurable* terms and they should be *appropriately related to the needs* described in the needs analysis. They should reflect the *changes* or *results* which the project activities are expected to bring about. The activities should be listed in summary form on the Form 419 (item 13) and described in detail in the project narrative. The description should indicate not only *what* will be done but *how* it will be done, i.e., the *strategy* that will be pursued in achieving goals. The activities should be *appropriately related to the goals.*

If an applicant is proposing to carry out activities in more than one program category the categories should be listed on the Form 419 in priority order, and the goals, activities and budgets for *each category* should be clearly delineated. While the application will be reviewed, rated and ranked *in its entirety* (rather than by program category), this information is needed in order for CSA to know the kinds of activities that are being funded and the funding level of each program category.

(d) *Anticipated Impact.* The statement of project goals should include a description of what the applicant intends to accomplish, i.e., what results or changes the applicant intends to bring about in relation to the problem to be solved. Thus the statement of goals is a statement of anticipated impact. The anticipated impact of the project should be stated in specific and measurable terms and should include the number of persons to be served, the extent to which their nutritional needs will be met and the extent to which unmet needs will remain after the project is completed. The applicant should also include a statement indicating the per/person cost of serving those for whom the project is intended and the dollar value of services or benefits derived.

(e) *Coordination.* Each applicant must indicate to what extent other organizations conducting anti-hunger activities were involved in the planning of the project, and the ways in which the project will be coordinated in the implementation phase with the activities of these organizations. Where such is appropriate, CAA's must indicate how they intend to coordinate their activities with anti-hunger groups and anti-hunger groups must indicate how they intend to coordinate their activities with CAA's.

(f) *Catalytic Effect of Project on Institutions.* Catalytic activity which is aimed at institutions should attempt to bring about two results: *institutional change* and *mobilization of resources.* The means of achieving these is *advocacy.* The applicant, therefore, should describe in detail how the project staff will, through advocacy for low-income persons before public and private institutions, seek to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive the benefits to which they are entitled. Advocacy of this sort may and should include enlisting the poor to speak on their own behalf in order to insure that their views are heard, their rights are observed, the benefits to which they are entitled are provided, and their needs are met.

The applicant should also state how the project staff will, through advocacy for low-income persons before public and private institutions, leverage dollars or in-kind contributions from other elements in the community in support of the project and what

the overall or end effect of the project itself will be in terms of leveraging dollars or services for low-income individuals.

(g) *Ability of Applicant to Perform.* CSA Instruction 6800–9 requires Title II grantees to submit a semi-annual and annual project progress review report (CSA Form 440). This report provides an analysis of the accomplishments in relation to each goal in grantee's currently approved work program, and includes an assessment of grantee status with respect to general and/or specific standards of effectiveness applicable to each goal.

Since the ability of applicants to successfully carry out their proposed work program is one of the important criteria, applicants who are currently operating (or have operated in the past) a CFNP project must attach to the application a copy of the CFNP portion of the most recent Form 440, updating it where necessary. CSA grantees who have never operated a CFNP project must attach to the application that portion of their most recent Form 440 which relates to a project they have operated that is similar to CFNP projects. Applicants not previously funded by CSA should attach to the application a third-party of self evaluation of a project they have been operating that is similar to CFNP projects, along with a brief statement summarizing their overall administrative ability and general performance record.

All applicants currently operating CFNP projects are encouraged to conduct a third-party evaluation of their current CFNP project (or in the absence of such, a self-evaluation) and attach copies of these evaluations to their applications.

7. Training and Technical Assistance

The applicant's need for training and technical assistance in carrying out the project should be carefully described in item 15 of the Form 419. It is presumed that most, if not all, projects will need some form of technical assistance. The training and technical assistance plans proposed by the regional T&TA providers will be revised, as necessary, in light of the statement of goals, activities, and T&TA needs expressed by applicants on their Form 419s. It is important therefore, that applicants be precise and specific in defining and articulating their T&TA needs.

8. Allocation of FY 79 Funds

The regional allocations of FY 79 CFNP funds had not been determined at the time this rule was submitted to the **Federal Register.** However, they will be published separately at a later date and will be based on the three-factor formula of last year, i.e., the number of poor, the number of infant deaths, and the number eligible but not participating in the Food Stamp Program. The distribution of funds by type of project (e.g., General Community, Special Support, etc.) will be announced at the same time.

9. Program Accounts

For the purposes of the Fiscal Year 1979 funding process, the following program account numbers for the national program categories should be entered in item 16 of Form 419:

Program Accounts for CFNP Activities

12—Access.
13—Self-Help.
15—Nutrition education.
16—Crisis relief.
29—Research.
39—Demonstration.
42—T&TA.
48—Evaluation.

If the applicant proposes to address more than one national program category in the same project, only one Form 419 is needed for the project but the goals and activities falling in separate program categories (program accounts) must be clearly separated from each other on the Form 419 and a separate budget (Forms 25 and 25a) should be attached for *each* program account.

[6315-01-M]

APPENDIX B

RATING CRITERIA - GENERAL COMMUNITY PROJECTS	
1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project.	
2. Analysis of Needs/Priorities(0-15 pts) -Nature and extent of problem is adequately described and documented(0-8 pts) -Priorities selected represent the most serious needs(0-7 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-15 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-5 pts) -Impact is moderate(6-10 pts) -Impact is substantial(11-15 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organziations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-25 pts) A. Institutional Change(0-15 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-5 pts) - 25% and up(6-10 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

APPENDIX C

RATING CRITERIA - INDIAN PROJECTS

1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project.	
2. Analysis of Needs/Priorities(0-20 pts) -Nature and extent of problem is adequately described and documented(0-10pts) -Priorities selected represent the most serious needs(0-10 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-15 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-5 pts) -Impact is moderate(6-10 pts) -Impact is substantial(11-15 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organizations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-20 pts) A. Institutional Change(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-5 pts) - 25% and up(6-10 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

APPENDIX D

RATING CRITERIA - MIGRANT PROJECTS

1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project. 2. Analysis of Needs/Priorities(0-15 pts) -Nature and extent of problem is adequately described and documented(0-8 pts) -Priorities selected represent the most serious needs(0-7 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-15 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-5 pts) -Impact is moderate(6-10 pts) -Impact is substantial(11-15 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organizations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-25 pts) A. Institutional Change(0-20 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-5 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-2 pts) - 25% and up(3-5 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

APPENDIX E

RATING CRITERIA - SPECIAL SUPPORT PROJECTS

1. Participation of the Poor(5 pts) -Substantive participation by the poor is ensured in the planning, conduct, and evaluation of the project. 2. Analysis of Needs/Priorities(0-15 pts) -Nature and extent of problem is adequately described and documented(0-8 pts) -Priorities selected represent the most serious needs(0-7 pts)	
3. Adequacy of Work Program and Budget(0-20 pts) -Goals are appropriately related to need and are specific and measurable (0-5 pts) -Activities are adequately described and appropriately related to goals (0-10 pts) -Budget is appropriately related to activities and adequately documented (0-5 pts)	
4. Anticipated Impact(0-10 pts) In relation to the problem to be solved and the resources committed to the project, the -Impact is minimal(0-3 pts) -Impact is moderate(4-6 pts) -Impact is substantial(7-10 pts)	
5. Coordination(0-10 pts) -Applicant has involved other institutions and organizations, where appropriate, in the planning of the project(0-5 pts) -Other institutions/organizations will be involved in the implementation of the project(0-5 pts)	
6. Catalytic Effect of Project on Institutions (ADVOCACY)(0-30 pts) A. Institutional Change(0-20 pts) Grantee, through advocacy for low-income persons before public and private institutions, seeks to change interpretations of laws, regulations, policies, procedures, and attitudes in order to insure that low-income persons receive that to which they are entitled. B. Mobilization of Community Resources(0-10 pts) Grantee, through advocacy for low-income persons before public and private institutions, leverages dollars or in-kind contributions from other elements in the community. - 0-10% of total budget(0 pts) - 10-25% of total budget(1-5 pts) - 25% and up(6-10 pts)	
7. Ability of Applicant to Perform(0-10 pts) -Assessment of past CFNP or other relevant projects (including written self or third party evaluations, progress reports, or CSA on-site assessments.) (0-5 pts) -Assessment of appplicant's overall administrative ability and general track record.(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

APPENDIX F

RATING CRITERIA - REGIONAL T & TA PROJECTS

1. Applicant has Skills/Abilities to Perform Adequately(0-30 pts) -Applicant's past experience (0-10 pts) -Quality of staff: -Knowledge of Food and Nutrition Field (including other federal food programs)(0-10 pts) -Knowledge/skills in four program categories(0-10 pts)	
2. Proposal is Responsive to CSA Policy Priorities(0-25 pts) Applicant demonstrates an understanding of an adequate plan to assist CFNP grantees in moving from a service delivery to a catalytic role by engaging in advocacy to effect: -Institutional change(0-15 pts) -Mobilization of resources(0-10 pts)	
3. Proposal is Responsive to CFNP Grantee Needs for T&TA in Four Program Categories(0-25 pts) -Plan is adequate to meet grantee needs(0-15 pts) -Plan is appropriately related to the activities in the four categories (0-10 pts)	
4. Proposal is Responsive to CFNP Grantee Needs for T&TA in Program Management (0-10 pts) Applicant proposes an appropriate and adequate plan to assist grantees to improve their ability to: -Assess needs -Set goals and priorities -Evaluate results	
5. Proposal Includes a Plan to Coordinate T&TA Activities with Other Appropriate Entities (0-5 pts) 6. Proposal Includes a Plan to Evaluate Results of Applicant's Efforts(0-5 pts)	
TOTAL POINTS POSSIBLE: 100	

[6315-01-C]

Appendix G

Regional Offices

REGION I (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Community Services Administration, CFNP Coordinator: Franklyn B. Jackson, Jr., John F. Kennedy Federal Bldg., Rm. 432, Boston, MA 02203, *Phone (617) 223–0975.

Regional Director: Mr. Ivan Ashley, *Phone (617) 223–4080.

REGION II (Serving: New Jersey, New York, Puerto Rico, Virgin Islands)

Community Services Administration, CFNP Coordinator: Saundra Hamilton, 26 Federal Plaza, 32nd Floor, New York, NY 10007, *Phone (212) 264–1946.

Regional Director: Mr. John Finley, *Phone (212) 264–1900.

REGION III (Serving: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

Community Services Administration, CFNP Coordinator: Norma Clarkson, Old U.S. Courthouse, 9th & Market Streets, Philadelphia, PA 19104.

Regional Director: Dr. W. Astor Kirk, *Phone (215) 597–1139.

REGION IV (Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Community Services Administration, CFNP Coordinator: Raymond Keigher (Acting), 101 Marietta Street, NW., Atlanta, GA 30303, Phone (404) 221–2799.

Regional Director: Mr. William "Sonny" Walker, Phone (404) 221–2717.

REGION V (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Community Services Administration, CFNP Coordinator: Elizabeth Newsome, 300 S. Wacker Drive, 24th Floor, Chicago, Illinois 60606, *Phone (312) 353–6021.

Regional Director: Mr. Glenwood Johnson, *Phone (312) 353–5562.

REGION VI (Serving: Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Community Services Administration, CFNP Coordinator: Mr. Hamah King, 1200 Main Street, Dallas, TX 75202, Phone (214) 767–6146.

Regional Director: Mr. Ben Haney, Phone (214) 767–6125.

REGION VII (Serving: Iowa, Kansas, Missouri, Nebraska)

Community Services Administration, CFNP Coordinator: Ms. Grace Ledwidge, 911 Walnut Street, Kansas City, MO 64106, Phone (816) 374–3561.

Regional Director: Mr. Wayne Thomas, Phone (816) 374–3761.

REGION VIII (Serving: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Community Services Administration, CFNP Coordinator: Willard O'Berry, Federal Bldg., 1961 Stout Street, Denver, CO 80294, Phone (303) 837–3211.

Regional Director: Mr. David Vanderburgh, Phone (303) 837–4767.

REGION IX (Serving: Arizona, California, Hawaii, Nevada, Trust Territories)

Community Services Administration, CFNP Coordinator: Carl Shaw (Acting), 450 Golden Gate Avenue, San Francisco, CA 94102, *Phone (415) 556–7895.

Regional Director: Mr. Alphonse Rodrigues, *Phone (415) 556–5400.

REGION X (Serving: Alaska, Idaho, Oregon, Washington)

Community Services Administration, CFNP Coordinator: Alberta Adams, 1321 Second Avenue, Seattle, WA 98101, Phone (206) 442–7194.

Regional Director: Mr. Dean Morgan, Phone (206) 442–4910.

*The commercial and FTS exchange are the same.

Migrant Conduits

Minnesota Migrant Council (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota)

P.O. Box 1231, St. Cloud, Minnesota 56301.

CFNP Coordinator: Rich Echola, Phone (612) 253–7010.

Migrant and Seasonal Farmworkers Association (Serving: Alabama, Mississippi, Georgia, Louisiana, West Virginia, Tennessee, South Carolina, Maryland, Virginia, North Carolina)

P.O. Box 33315, 3929 Western Blvd., Raleigh, North Carolina 27606.

CFNP Coordinator: Marian Tucker, Phone (919) 851–7611.

Florida Farmworker's Council (Serving: Florida)

1975 East Sunrise Boulevard, Suite 850, Ft. Lauderdale, Florida 33304.

CFNP Coordinator: Anita McGruder, Phone (305) 763–5252.

Rural New York (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, New York, Delaware, Pennsylvania)

339 East Avenue, Suite 305, Rochester, New York 14604.

CFNP Coordinator: Kathleen Hynes, Phone (716) 546–7180.

Campesinos Unidos (Serving: New Mexico, Arizona, California, Nevada)

P.O. Box 203, Brawley, California 92227.

CFNP Coordinator: Jose Lopez, Phone (714) 344–4500.

Idaho Migrant Council (Serving: Colorado, Washington, Wyoming, Montana, Utah, Idaho)

7155 Capital Blvd., Suite 406, Boise, Idaho 83706.

CFNP Coordinator: Sam Byrd, Phone (208) 345–9761).

Colonias del Valle (Serving: Oklahoma, Arkansas, Texas)

P.O. Box 907, San Juan, Texas 78759.

CFNP Coordinator: Isiais Aguayo, Phone (512) 787–9901.

[FR Doc. 79–15899 Filed 5–18–79; 8:45 am]

BILLING CODE 6315–01–M

IINTERSTATE COMMERCE COMMISSION

49 CFR Part 1036

[Ex Parte No. 252 (Sub-No. 2)]

Incentive Per Diem Charges on Gondolas

AGENCY: Interstate Commerce Commission.

ACTION: To make regulations effective.

SUMMARY: The Commission has decided to make effective the regulations in Part 1036 as they pertain to the application of an incentive element on gondola cars. The regulations were previously stayed at 42 FR 26985, May 26, 1977. The reason for implementing the regulations at this time is because the plain gondola car fleet is found to be inadequate to meet the future needs of the Nation. The regulations are also modified. The level of incentive charges has been reduced and the 15-year guarantee eliminated. Given recent changes in basic car-hire compensation the Commission believes that the former level of incentive charges and the guarantee are no longer necessary. The parties have 20 days from the publication of this notice to file comments in regard to the modification of the regulations.

EFFECTIVE DATE: The amended rules are to be effective as of June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak, Interstate Commerce Commission, Washington, D.C. 20423; Phone No. 202–275–7693

SUPPLEMENTAL INFORMATION: The proceeding was to determine if incentive per diem (IPD) charges should be applied to plain gondola cars. Based upon an extensive record, the Commission found in a report and order served April 14, 1977, 353 I.C.C. 612, that IPD charges should be applied to plain gondolas. The Commission stated that no significant net shortages of plain gondolas were reported at the time. However, it nevertheless determined that the supply of plain gondolas was inadequate. This conclusion was based on the chronic shortages experienced in the past, and on the expectation that with the "expected economic recovery," significant plain gondola shortages would occur in the near future.

Contrary to the expectations of most economists, the expected economic recovery did not occur to the extent forecast. The steel industry experienced layoffs and declines in profits. An econometric model produced by the Data Resources, Inc., which had been relied upon in the earlier finding of

inadequate supply, reversed its conclusion on the needs of the steel industry. That led the Commission, upon petition, to reexamine the finding of inadequate car supply, and particularly its forecast of gondola car shortages caused by anticipated future steel production. In an order served February 2, 1978, the Commission determined that expectations for the production and consumption of steel were down considerably from the time of its earlier report. Since much of the traffic carried by plain gondolas consists of domestic steel products, the forecast for plain gondola car demand was also revised downward. The revised economic analysis found that projected carloadings per car would not recover to its 1973 and 1974 levels until at least 1983, which was at least five years away. Because the supply of plain gondolas appeared adequate for IPD purposes the Commission stayed the regulations establishing IPD charges on those cars. In that same order, the Commission allowed parties to file comments and replies to its appended economic analysis and conclusions.

After considering the comments filed by the parties, the Commission has refined and updated its projection of the supply and demand for gondola cars and concluded that the supply of plain gondola cars is inadequate to meet the future needs of the Nation. Accordingly, it was decided on May 16, 1979 that an incentive element shall be made applicable to plain gondolas, effective June 1, 1979. It was also decided that the level of incentive charges initially proposed resulted in a combination of incentive plus basic charges that was unnecessarily high. The Commission decided to reduce the level of incentive charges. Furthermore, the Commission has decided that the 15-year guarantee applicable to newly purchased or acquired plain gondola cars is no longer necessary and should be eliminated. The parties are allowed to file comments discussing the charges in the regulations, however such comments should not exceed 10 pages.

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS AND GONDOLAS

It is ordered that regulations prescribed in Part 1036 of Subchapter A, Chapter X of Title 49 of the Code of Federal Regulations, and in the Commission report, 353 I.C.C. 612, published 40 FR page 23511 on May 9, 1977; and modified by Commission order dated September 14, 1977, published in 42 FR page 48883; be amended as follows:

Sections 1036.2, 1036.6 and 1036.7 are amended to read as follows, while 1036.8 is eliminated (the former § 1036.8 is replaced as § 1036.7).

§ 1036.2 Amount of incentive charge.

The incentive hourly charges applicable in each cost bracket by age group are set forth below:

Amount of Incentive Hourly Charge Collectible on Unequipped Boxcars for a 6-Month Period From September 1 of Each Year Through February 28 of the Following Year and a Year-Round Basis for XF-Cars

Cost bracket	0–5 years hourly charge (cents)	6–10 years hourly charge (cents)	11–15 years hourly charge (cents)	16–20 years hourly charge (cents)	21–25 years hourly charge (cents)	26–30 years hourly charge (cents)	Over 30 years hourly charge (cents)
$0–$1,000	1	1	1	1	1	1	1
1,001–3,000	3	2	2	1	1	1	1
3,001–5,000	5	5	4	3	2	1	1
5,001–7,000	8	7	6	4	3	2	1
7,001–9,000	11	9	7	6	4	2	1
9,001–11,000	14	11	9	7	5	3	1
11,001–13,000	16	14	11	8	6	3	2
13,001–15,000	19	16	13	10	7	4	2
15,001–17,000	22	18	15	11	8	4	2
17,001–19,000	24	20	16	12	9	5	3
19,001–21,000	27	23	18	14	10	5	3
21,001–23,000	30	25	20	15	10	6	3
23,001–25,000	32	27	22	17	11	6	4
25,001–27,000	35	29	24	18	12	7	4
27,001–29,000	38	32	26	19	13	7	4
29,001–31,000	41	34	27	21	14	8	4
31,001–33,000	43	36	29	22	15	8	5
33,001–35,000	46	38	31	24	16	9	5
35,001–37,000	49	41	33	25	17	9	5
37,001–39,000	51	43	35	26	18	10	6
39,001–41,000	54	45	37	28	19	10	6

Amount of Incentive Hourly Charge in Cents Collectible on Unequipped Gondola Cars on a Year-Round Basis

Cost bracket	0–5 years (cents)	6–10 years (cents)	11–15 years (cents)	16–20 years (cents)	21–25 years (cents)	26–30 years (cents)	Over 30 years (cents)
$0–$1,000	1	1	1	1	1	1	1
1,001–3,000	2	1	1	1	1	1	1
3,001–5,000	3	4	3	2	1	1	1
5,001–7,000	5	5	4	3	2	2	1
7,001–9,000	8	6	5	4	3	2	1
9,001–11,000	9	7	6	5	3	2	1
11,001–13,000	11	10	8	5	4	2	1
13,001–15,000	12	11	9	7	5	3	2
15,001–17,000	15	12	10	8	6	3	2
17,001–19,000	16	14	10	8	6	4	2
19,001–21,000	18	16	12	10	6	4	2
21,001–23,000	20	17	13	10	6	4	2
23,001–25,000	22	18	15	12	8	4	3
25,001–27,000	23	20	16	13	8	5	3
27,001–29,000	26	22	18	13	9	5	3
29,001–31,000	28	23	18	15	9	5	3
31,001–33,000	29	25	20	15	11	5	3
33,001–35,000	31	26	21	17	11	6	3
35,001–37,000	34	28	23	17	11	6	3
37,001–39,000	34	29	24	18	12	6	4
39,001–41,000	37	31	26	20	12	7	4

§ 1036.6 Effective date.

The rules set forth in §§ 1036.1 and 1036.2 shall apply for a 6 month period from September 1 of each year through February 28 of the following year on general service, unequipped boxcars, and on a year-round basis for XF cars. The rules set forth in §§ 1036.1, 1036.2, and 1036.5 shall apply on a year-round basis for gondola cars, effective June 1, 1979.

§ 1036.7 Rules and regulations suspended.

The operation of all rules and regulations, insofar as they conflict with the provisions of this part, is hereby suspended. The charge herein provided shall be paid for each day cars are held, but nothing in this part shall prevent the operation of hourly or per diem reclaim

agreements customarily employed by and between particular railroads to provide for special situations, or with the use of customary methods of settling balance of hourly or per diem accounts.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15804 Filed 5-18-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 17 and 222

Totoaba; Listing as an Endangered Species

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce and the U.S. Fish and Wildlife Service (FWS), Department of the Interior.

ACTION: Final Regulation.

SUMMARY: The National Marine Fisheries Service ("NMFS") determined the totoaba (*Cynoscion macdonaldi*) to be an endangered species throughout its range, pursuant to Section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (the "Act"). This species is added to the List of Endangered and Threatened Wildlife found in 50 CFR 17.11 and 50 CFR 222.23.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, NMFS, Washington, D.C. 20235 (202) 634-7287.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1976, NMFS/FWS published a proposal to list the totoaba as an endangered species under the Act (41 FR 56839). This action was taken pursuant to Section 4(a) of the Act which provides that the Secretary may list a species because of any of the following circumstances:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

With the exception of enforcement responsibilities for certain plants, the Act defines "Secretary" to mean either the Secretary of the Interior or the Secretary of Commerce. Most marine species, including the totoaba, are the sole responsibility of the Secretary of Commerce. The authority of the Secretary has been delegated to the Assistant Administrator for Fisheries, NOAA.

The proposal summarized the information from the scientific literature and particular scientists that led to the proposed listing of totoaba as an endangered species. In September 1978, a workshop to evaluate the biological status of totoaba was convened by the NMFS at its Southwest Fisheries Center in La Jolla, California (the "Workshop"). The Workshop included scientists from the United States and Mexico who were most knowledgeable with this species and who reviewed the available information from the literature and from recent field work conducted in the upper Gulf of California.

The conclusions of the scientists participating in the Workshop were similar to those supporting the original proposal and they were summarized in a report which is available for public inspection upon request (see later discussion of the National Environmental Policy Act).

(1) *The present or threatened destruction, modification or curtailment of its habitat or range.* The totoaba spawns in the mouth of the Colorado River in the spring (probably April and May). In late winter, mature adults move out of the deeper waters of the northern half of the Gulf of California into the shallower waters along the east side of the Gulf. They form schools that move northward to the mouth of the Colorado River where spawning takes place. It has been postulated that this pattern of spawning migration responded historically to a salinity gradient or train of "odors" of freshwater or river substrate formed by the spring flood waters of the river mixing with the saline water of the upper Gulf. The result was a brackish water environment at the head of the Gulf that was apparently favored by totoaba as a spawning and nursery area.

Diversions of Colorado River water began in the early 1900's and spring floods essentially have been controlled since 1935 with the completion of Hoover Dam. Extensive diversion and construction of storage facilities occurred throughout the latter half of the 1930's, and into the 1950's.

Southwest regional and international agreements for diversion of the Colorado River water were negotiated throughout this period resulting in a situation where Mexico is guaranteed a minimum of 1.5 million acre feet of water annually. The entire remainder of river flow (recent average is 11–13 million acre feet) is either stored or diverted for crop irrigation and municipal water supply within the southwestern United States. After the completion of Morelos Dam by Mexico in 1950, Mexico had the capability to use their entire allocation. However, some water continued to flow into the Gulf until the early 1960's because in years of above average flow the United States sometimes provided extra water to Mexico and drainage from irrigation by Mexico was returned to the main channel of the Colorado River.

It was demonstrated at the Workshop that at the present time (and for the past 10–15 years) essentially no water has entered the upper Gulf of California through the channel of the Colorado River. There was agreement among the Workshop participants that the reduction in river flow was one of several factors that contributed to the initial reduction of the totoaba population by altering the spawning and nursery habitat.

(2) *Overutilization for commercial, sporting, scientific, or educational purpose.* The totoaba is found exclusively in Mexican waters in the Gulf of California. It is the largest species (reportedly reaching a length of 2 m. and a weight of 90 kgs.) of the genus *Cynoscion* in the family *Sciaenidae* (which includes the California white sea bass, corvina, and other game fish.

As mentioned above, totoaba spawn in the spring. They leave the deep water in the northern half of the Gulf and migrate northward in shallower waters along the east side of the Gulf to the spawning area near the mouth of the Colorado River. Spawning behavior leads to a high density of fish within a limited area. During this period, as well as during the northern migration, the fish are highly vulnerable to sport and commercial fishing.

The commercial catch of totoaba for human consumption began in the early 1920's. From the time that the Mexican Government began keeping records (1929) the catch increased steadily to a peak in excess of 2,000 metric tons (m.t.) in 1942 (Flanagan and Hendrickson, 1976, Attachment VIII of the Totoaba

Workshop Report, 1978 [1]). The catch declined steadily after that to a 1958 low of about 300 m.t. It increased again from 1959 to 1966 when it peaked at about 1,100 m.t. The second increase may have been, in part, a response to protective measures that had been implemented in 1955 (creation of a sanctuary at the mouth of the Colorado River and a 45 day closed season during the spring spawning period) that may have allowed the population to increase, and/or, more efficient gear (nylon gillnets, for example) that allowed an increased catch, regardless of the population trend (Hendrickson, pers. comm., October 1978). The catch decreased again after 1966, to an all-time low of only 58 m.t. in 1975. There are no recent (last 20 years) estimates of the take in the sport fishery.

The added mortality of juveniles taken incidentally by shrimp trawls in the upper Gulf area was, and continues to be, another important point of vulnerability, although to an unknown extent. Some shrimp fishing is known to occur (illegally) in the sanctuary area of the head of the Gulf (field observations of Walker, et al., Spring, 1978[1]) but there are no data to indicate the actual amount of shrimping or the magnitude of the incidental catch of totoaba. Workshop participants indicated that although the total shrimp catch, which increased steadily during recent years, has apparently stabilized, the number of boats has continued to increase (about 40 new boats were preparing to enter the fishery in the fall of 1978). That implies a steady increase in effort and suggests an increase in incidental take of totoaba in the shrimp fishery.

Scientists participating in the Workshop [1] confirmed conclusions in the original proposal that overfishing by both directed fisheries and incidental take in the shrimp fishery, the diversion of the Colorado River flow (that caused changes in the spawning habitat), and possibly insecticides, drastically reduced the population of totoaba initially in the 1940's and 1950's to an unknown fraction of its former abundance. It was also noted that the directed fisheries and incidental take continued after the protective measures were instituted in 1955, with the commercial catch increasing markedly from 1959 to 1966 when it most recently peaked. Incidental catch in the shrimp fishery may have also increased. The catch declined steadily thereafter to the all-time low in 1975, whereupon Mexico recognized the totoaba as a protected species on June 19, 1975, and declared an indefinite prohibition on all forms of directed fishing for the species. The Workshop concluded that the totoaba is very likely endangered and that the continued incidental take of both juveniles (in the shrimp fishery) and adults (in the gillnet fisheries for other species) was currently the principal threat to the species.

(3) *Disease or predation.* There are no diseases known to be significantly affecting this species. Predation of eggs, larvae and juveniles by other species of fish and other animals undoubtedly occurs, but to an unknown extent.

(4) *The inadequacy of existing statutory mechanisms.* The totoaba is currently listed as a protected species by Mexico and all directed fisheries are prohibited. Incidental catch, however, is allowed in the shrimp and gillnet finfisheries of the northern Gulf of California. In addition, the totoaba is currently listed on Appendix I of the International Convention on Trade in Endangered Species of Fauna and Flora (CITES) which prohibits the importation of this species for other than scientific purposes or for enhancement or propagation of the species. This final listing duplicates the prohibition on importation and is expected to provide the following added benefits to the species: an additional deterrent to commercial and sporting take by persons subject to U.S. jurisdiction; an impetus to development of joint research with Mexico; and an encouragement to Mexico to reduce the remaining take to allow rebuilding of the population.

(5) *Other natural or man-made factors affecting its continued existence.* There are no other known factors significantly affecting this species.

Summary of Comments and Recommendation

Five comments were received favoring the proposal. Only one negative comment was received from a fish importer in southern California who protested the action as unnecessary. He pointed out that the fish was caught in Mexico and asserted that the Mexican Fisheries Department had the totoaba situation well in hand. The information available to the NMFS, however, indicates that the totoaba situation remains serious and that the listing as endangered is entirely appropriate.

Effect of This Rulemaking

Section 9(a) of the Act sets forth a series of general prohibitions which apply to all endangered species of fish and wildlife. With respect to any endangered species listed pursuant to Section 4 of the Act, it is unlawful for any person subject to the jurisdiction of the United States to:

(1) Import any such species into, or export any such species from, the United States;

(2) Take any such species within the United States or the territorial sea of the United States;

(3) Take any such species upon the high seas;

(4) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of (2) or (3) above;

(5) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(6) Sell or offer for sale in interstate or foreign commerce any such species; or

(7) Violate any regulations pertaining to such species and promulgated by the Secretary pursuant to authority provided by the Act.

The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

Section 4(a)(1), as amended on November 10, 1978, also states that "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat." Since the totoaba occurs only in Mexican waters no critical habitat is designated for this species. The Act does not contemplate the designation of critical habitat in foreign countries and, under previously established policy, the United States has refrained from making foreign designations.

National Environmental Policy Act

The Assistant Administrator has determined that the proposed designation of the totoaba as an endangered species is not a major Federal action which would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. An environmental assessment pertaining to this determination is available for public review in the Office of Marine Mammals and Endangered Species, National Marine Fisheries

[1] Report of the Workshop to Evaluate the Biological Status of Totoaba, *Cynoscion macdonaldi*, held at the National Marine Fisheries Service Southwest Fisheries Center, La Jolla, California, September 18–19, 1978, with 9 attachments. This report, which confirms previous biological conclusions about totoaba, is attached to the Environmental Assessment pertaining to this listing. The assessment may be reviewed or obtained as indicated in the National Environmental Policy Act section of the preamble.

Service, 3300 Whitehaven Street, N.W., Washington, D.C. or may be obtained by writing to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. The workshop report referred to in this preamble is attached to the Environmental Assessment.

Miscellaneous: Under Executive Order 12044 (43 FR 23170) and Department of Commerce Administrative Order 218–7 (44 FR 2082), the Assistant Administrator for Fisheries has determined that this final action is not a significant regulation in accordance with established agency criteria and that preparation of a regulatory analysis is not required.

The primary author of this final rule is Dr. Robert V. Miller, Office of Marine Mammals and Endangered Species, (202) 634–7461.

Regulation Promulgation

Accordingly, 50 CFR Chapter I, Part 17 and Chapter II, Part 222, are amended as follows:

§ 17.11 [Amended]

(1) The list of endangered and threatened wildlife in 50 CFR § 17.11 is amended by adding the totoaba under the class entitled "FISHES" and immediately before "Trout, Arizona," as follows:

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion endangered			
Totoaba	*Cynoscion macdonaldi*	N/A	Gulf of California	Entire	E		N/A

Dated: April 12, 1979.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 79–15803 Filed 5–18–79; 8:45 am]

BILLING CODE 3510–22–M

§ 222.23 [Amended]

(2) 50 CFR § 222.23(a) is amended by adding "Totoaba (*Cynoscion macdonaldi*)" immediately after "Shortnose Sturgeon (*Ancipenser brevirostrum*)" in the second sentence.

Proposed Rules

Federal Register
Vol. 44, No. 99
Monday, May 21, 1979

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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Ch. I]

Proposed Alteration of Terminal Control Area; Kansas City, Mo.; Informal Airspace Meeting No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: This notice announces an informal airspace meeting to be held at 1:00 PM, Monday, June 18, 1979, in Room 140, at the Federal Office Building, 601 East 12th Street, Kansas City, Missouri. The purpose of this meeting is to discuss a proposed alteration of the Kansas City, Missouri, Terminal Control Area (TCA), Docket 18605–ACE–1. Comments on the potential economic and environmental effects are also invited. Attendance is open to the interested public, but is limited to the space available.

With the approval of the Chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the Chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the Chairman or as directed at the meeting.

DATE: Monday, June 18, 1979; 1:00 p.m.

ADDRESS: Room 140, Federal Office Building, 601 East 12th St., Kansas city, Missouri.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

Issued in Kansas City, Missouri, on May 4, 1979.

Robert I. Gale,
Chief, Air Traffic Division, FAA Central Region.

[FR Doc. 79–15255 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Ch. I]

Proposed Alteration of Terminal Control Area; St. Louis, Missouri; Informal Airspace Meeting No. 2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: This notice announces an informal airspace meeting to be held at 7:00 PM, Wednesday, June 20, 1979, in the McDonnell Douglas World Headquarters Building, Special Event Theater, Brown Road & Airport Road, St. Louis, Missouri. The purpose of this meeting is to discuss a proposed alteration of the St. Louis, Missouri, Terminal Control Area (TCA), Docket 18605–ACE–2. Comments on the potential economic and environmental effects are also invited. Attendance is open to the interested public, but is limited to the space available.

With the approval of the Chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the Chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the Chairman or as directed at the meeting.

DATE: Wednesday, June 20, 1979; 7:00 p.m.

ADDRESS: McDonnell Douglas World Headquarters Building, Special Event Theater, Brown Road & Airport Road, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

Issued in Kansas City, Missouri, on May 4, 1979.

Robert I. Gale,
Chief, Air Traffic Division, FAA Central Region.

[FR Doc. 79–15256 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Ch. I]

Proposed Terminal Control Area; Des Moines, Iowa; Informal Airspace Meeting No. 3

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: This notice announces an informal space meeting to be held at 7:00 PM, Monday, June 21, 1979, in Classroom A at the Iowa Air National Guard, 3100 McKinley Avenue, Des Moines, Iowa. The purpose of this meeting is to discuss a proposed Des Moines, Iowa, Terminal Control Area (TCA), Docket 18605–ACE–3. Comments on the potential economic and environmental effects are also invited. Attendance is open to the interested public, but is limited to the space available.

With the approval of the Chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the Chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the Chairman or as directed at the meeting.

DATE: Thursday, June 21, 1979; 7:00 p.m.

ADDRESS: Iowa Air National Guard 3100 McKinley Avenue Des Moines, Iowa.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

Issued in Kansas City, Missouri, on May 4, 1979.

Robert I. Gale,
Chief, Air Traffic Division,
FAA, Central Region.

[FR Doc. 79-15257 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-GL-13]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near South Bend, Indiana, to accommodate a new Runway 21 instrument approach procedure into the Jerry Tyler Memorial Airport, Niles, Michigan, established on the basis of a request from the Tyler Airport officials to provide that airport with an additional instrument approach procedure. 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 weather conditions.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-13, 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: Doyle Hegland, 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 will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately one mile beyond that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes 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. 79-GL-13, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 25, 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 71) to alter the transition area airspace near South Bend, Indiana. Subpart G of Part 71 was published in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

IN § 71.181 (44 FR 442) the following transition area is amended to read:

South Bend, Indiana

That airspace extending upward from 700 feet above the surface with a 6-mile radius of Michigan Regional Airport, South Bend, Indiana (latitude 41°42'15"N., longitude 86°18'59"W.) and within 5 miles south and 8 miles north of the South Bend ILS localizer east course, extending from Michigan Regional Airport to 12 miles east of the ILS outer marker and within 5 miles west and 8 miles east of the South Bend, Indiana VOR 360° radial, extending from the Michigan Regional Airport to 12 miles north of the VOR and within a 5-mile radius of Tyler Memorial Airport, Niles, Michigan (latitude 41°50'30"N., longitude 86°13'30"W.), extending from the Niles (Tyler Memorial Airport) 2.5 miles either side of the Litchfield, Michigan VORTAC 239° radial to eight miles northeast of the Tyler Airport, excluding that airspace which overlies the Dowagiac, Michigan transition area.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-13, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on May 10, 1979.

Wayne J. Barlow,
Acting Director, Great Lakes Region.

[FR Doc. 79-15465 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-3]

Transition Area, Liberal, Kansas; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Liberal, Kansas, to provide additional airspace for aircraft executing a new instrument approach procedure to the Liberal, Kansas Municipal Airport, which is based on the Liberal Non-Directional Radio Beacon, a navigational aid.

DATES: Comments must be received on or before June 28, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air

Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before June 28, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received 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 NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181), by altering the 700-foot transition area at Liberal, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Liberal, Kansas Municipal Airport, utilizing the Liberal NDB as a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the transition area at Liberal, Kansas, at and above 700 foot above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, Section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), by altering the following transition area:

Liberal, Kansas

That airspace extending upwards from 700 feet above the surface within a ten mile radius of the Liberal Municipal Airport (latitude 37°02'40" N.; longitude 100°57'42" W.), and within 3 miles each side of the 180° bearing from the Liberal NDB (latitude 36°57'.32" N.; longitude 100°57'20.86" W.), extending from the 10 mile radius area to 8 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on May 9, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[FR Doc. 79-15464 Filed 5-18-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SW-11]

Rescission of Alternate Airway Segments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter V-15, V-16 and V-66 airways by deleting an alternate airway segment in each of their definitions. V-15E between Scurry, Tex., and Blue Ridge, Tex., V-16S between Acton, Tex., and Scurry, and V-66N between Bridgeport, Tex., and Blue Ridge are no longer required or used for controlling air traffic and can no longer be justified as an assignment of airspace. This action would reduce chart clutter and make available additional airspace for other types of use.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwestern Region, Attention: Chief, Air Traffic Division, Docket No. 79-SW-11, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Tex. 76101. 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 (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

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, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before June 20, 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 Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would delete three unused alternate airway segments in the vicinity of Dallas-Forth Worth, Tex. This action would reduce chart clutter and make available more off-airway space.

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 (44 FR 307) as follows:

Under V–15 "Blue Ridge, Tex., including an east alternate via INT Scurry 023° and Blue Ridge 153° radials;" is deleted and "Blue Ridge, Tex.;" is substituted therefor.

Under V–16 "Scurry, Tex., including a south alternate;" is deleted and "Scurry, Tex.;" is substituted therefor.

Under V–66 "Blue Ridge, Tex., including a north alternate via INT Bridgeport 069° and Blue Ridge 285° radials;" is deleted and "Blue Ridge, Tex.;" is 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 Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–15714 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Parts 71 and 75]

[Airspace Docket No. 79–AL–1]

Alteration of Airways and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to realign VOR Federal Airway V–436 and Jet Route J–125 in the Achorage, Alaska, area and establish a new VOR Federal Airway in the vicinity of Big Lake, Alaska. These airway/route changes would improve traffic flow in the Anchorage terminal area.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 79–AL–1, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. 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 (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3715.

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, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before June 20, 1979, will be considered before action is taken on the proposed amendments. The proposals 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 amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) that would realign V–436 and J–125 near the Anchorage, Alaska, area, and establish new VOR Federal Airway V–491 in the vicinity of Big Lake, Alaska. These changes would provide additional route/airway segments that would give controllers additional airspace flexibility in the Anchorage terminal area to expedite traffic. This action would increase aviation safety and reduce controller workload by providing reliever routes thereby improving traffic flow. Subpart C of Part 71 and Subpart B of Part 75 was republished in the **Federal Register** on January 2, 1979 (44 FR 307 and 722).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 and Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (44 FR and 341 and 722) as follows:

§ 71.125 [Amended]

1. Under V–436, "From Anchorage, Alaska, via Talkeetna, Alaska;" would be deleted and "From Anchorage, Alaska, via INT Anchorage 347°T (322°M) and Talkeetna, Alaska 196°T (170°M) radials; Talkeetna;" would be substituted therefor.

2. "V–491 From Big Lake, Alaska; to Talkeetna, Alaska." would be added.

§ 75.100 [Amended]

Under Jet Route No. 125 "via Anchorage, Alaska; Talkeetna, Alaska" would be deleted and "via Anchorage, Alaska; INT Anchorage 347°T (322°M) and Talkeetna, Alaska, 196°T (170°M) radials; Talkeetna;" would be substituted therefor.

(Secs. 307(a) and 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 Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evalutation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15718 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 75]

[Airspace Docket No. 79-WA-4]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route No. 18 from Bradford, Ill., over St. Joseph, Mo., to Salina, Kans., to bypass Kirksville, Mo. This proposed action would reduce traffic congestion in the vicinity of Kirksville and would provide for more efficient use of the airspace.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 79-WA-4, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Rocket (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. 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:

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, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before June 20, 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 Circulator No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route No. 18 from Bradford, Ill., to Salina, Kans., via St. Joseph, Mo., rather than over Kirksville, Mo. Flight, are frequently radar vectored to Salina from north of J-18 and from over Bradford. Realignment of Jet Route No. 18 via St. Joseph would eliminate the need for radar navigation by ATC and would reduce traffic congestion in the vicinity of Kirksville.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

In § 75.100 under Jet Route No. 18 "Kirksville" is deleted and "St. Joseph" is 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 Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15715 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 75]

[Airspace Docket No. 79-WA-2]

Realignment of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route J-25 between Tulsa, Okla., and Des Moines, Iowa, via Kansas City, Mo., rather than via Butler, Mo. This realignment would eliminate two doglegs in this route segment thereby reducing the distance and fuel consumption required.

DATES: Comments must be received on or before June 20, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 79-WA-2, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. 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 (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

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, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before June 20, 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 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign a segment of J–25 to extend from Tulsa to Des Moines via Kansas City which is on a direct route between these points. This route would bypass Butler and an INT south of Lamoni. A segment of J–89 would continue to be designated from Tulsa to Kirksville, Mo., via Butler. This would retain a jet route segment for use between Tulsa and Butler. Flight planning and pilot/controller coordination would be reduced by the use of the proposed route.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviations Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

Under Jet Route No. 25 "Butler, Mo.; INT of the Butler 009° and the Des Moines, Iowa, 196° radials; Des Moines;" is deleted and "Des Moines, Iowa;" is 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 Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is approprate.

Issued in Washington, D.C., on May 14, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-15717 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 252]

[EDR-377; Docket No. 29044, Dated: May 16, 1979]

Proposed Restrictions on Smoking Aboard Aircraft

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend the existing rule on smoking aboard aircraft in various ways, including special seating for susceptible passengers, buffer zones, and special locations for cigar and pipe smoking. The Board is issuing the proposal on its own initiative.

INITIAL COMMENTS: August 20, 1979. Reply comments: September 19, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: June 11, 1979. Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 29044, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202–673–5444.

SUPPLEMENTARY INFORMATION: By ER–1091, (44 FR 5071, January 25, 1979) the Board amended its rules on smoking aboard aircraft to provide airline passengers more effective protection from tobacco smoke. This amendment was made on the basis of notice of proposed rulemaking EDR–306, 41 FR 44424, October 8, 1976. The new requirements are for special segregation of cigar and pipe smokers, and such other procedures as may be necessary to avoid exposing persons in no-smoking areas to smoke from cigars and pipes; a no-smoking area for each class of service and for charter service consisting of at least two rows of seats; enough seats in no-smoking areas for all persons who wish to be seated there, with provision for expansion of no-smoking areas to meet passenger demand; special provisions to ensure that if a no-smoking section is placed between smoking sections, the non-smoking passengers are not unreasonably burdened; and carrier measures to prevent smoking in no-smoking areas.

The Board has not finally decided whether the rules as now amended will be sufficient to protect non-smokers from unreasonable exposure to tobacco smoke. Various other suggestions have been advanced by petitioners and commenters in this proceeding. We would like to receive further comment on some of these possibilities, while at the same time observing the effect of the recent amendments to see whether more stringent actions are called for. Although we are presenting all of these porposals in rule form for ease of understanding, they certainly will not all be included in any final rule (some are mutually exclusive). They should be considered as options, which might be issued by the Board in various combinations.

Persons Unusually Susceptible to Tobacco Smoke

Several authorities have been cited by commenters to the effect that severe physical reactions to tobacco smoke are experienced by persons with certain medical conditons. Based on expert medical testimony that exposure to tobacco smoke causes extreme distress to some individuals, a New Jersey court has held that an employee who suffered

allergic reactions to the inhalation of ambient smoke was entitiled to work in a smoke-free environment.[1] In letters to the Board dated January 11, 1978, and August 3, 1978, the Secretary of the Department of Health, Education, and Welfare, citing the harm suffered by individuals with certain allergies and respiratory diseaes, called for the special protection of such travelers.

While action to accommodate unusually susceptible individuals may be justified, we do not find practicable ASH's proposal to ban all smoking on any flight where a passenger indicates that exposure to smoke will cause "serious physical injury or other impairment." Restricting all passengers upon the request of a susceptible individual could cause last-minute controversies between passengers and difficult administrative problems for the airlines. There may be merit, however, in requiring airlines to take more action with regard to persons with special problems. Some airlines have been dealing with the problem of persons with unusual susceptibility to smoke by placing them in seats that are farthest from the smoking areas. We are proposing to make the practice general, by requiring carriers to seat persons who advise them of special susceptibility to smoke either in the area of the plane that is farthest from any smoking area, or in a position shown by objective tests to be the freest from smoke. We request that commenters on this proposal address these questions:

How should carriers decide which persons are entitlied to special accommodation?

Should there be a list of qualifying medical conditions?

Should a medical certificate be required, and if so what should be the minimum requirements for the certificate?

Is uniformity of carrier rules important?

Sandwiching

A few carriers that offer more than one class of service per compartment place the no-smoking area for both classes together in a split-section seating configuration, so that non-smokers are, in effect, "sandwiched" between smokers. This seating arrangment has been the subject of complaints to the Board's Bureau of Consumer Protection. Allegheny Airlines has agreed to cease and desist from employment of this configuration. Order 76–4–160, April 28, 1976. Allegheny had, as a result of self-monitoring, already found that this configuration did not provide effective separation of smokers and non-smokers on it DC–9–30 aircraft and discontinued the practice.

To remedy the problems created by sandwiching, EDR–306 proposed to amend § 252.2 to require that there be no more than one smoking area per aircraft compartment. This proposal was opposed both by carriers and by advocates of stricter smoking regulations.

Those opposed to smoking on aircraft found the allowance of one smoking area in each compartment too lenient. Many individuals filing comments took the position that all smokers should be seated together and isolated in one area from which there is the least possible flow of smoke to non-smokers. Many suggested that this area should be the rear of the aircraft. In addition, ASH urged that there should be no smoking area at all in forward first class, because its small size prevents effective separation, and because smoke drifts back into the tourist no-smoking area even when a curtain is drawn.

There has been no convincing demonstration, however, that grouping all smokers together would solve the problems associated with smoking on aircraft. Although we recognize the problem, we do not find that a ban on all smoking in first class is warranted at this time. In order to provide more effective separation, carriers might make use of "don't care" passengers or empty seats as buffers between smokers and those non-smokers who object to any exposure to smoke. While intensity of feeling on the part of large numbers of non-smokers is evident in the comments, there may be a substantial group of non-smokers who would not feel burdened by sitting in the row behind first class smoking section. Pan American indicates that it has had success with the use of "don't cares" and vacant seats, and this aspect of its seating procedures may be usable by other carriers.

Some carriers objected to limiting smoking areas to one per compartment. Objections related primarily to the relative merits of sandwiching, and to possible interference with the marketing of various classes of service. ATA stated that no limit smoking areas to one per compartment in situations where the rear compartment accommodates more than one class, a carrier would have to either discriminate by denying smoking to one class or combine smokers without regard to class. Continental argued that sandwiching of non-smokers provides them better protection than they would receive under the proposed rule, because placing coach and economy smokers together would make the smoke more dense, reduce the speed with which it is cleared, and have an adverse psychological effect by presenting non-smokers with a concentrated area of smoke. It makes more detailed arguments with respect to the B–727 and the DC–10, contending that sandwiching reduces the points of contact between smokers and non-smokers on these aircraft.

The Board would like to have the benefit of additional comments on the technical issues raised by Continental's objections. A proposal to limit smoking areas to one per compartment is therefore included in this notice, to obtain more data on the effects of various seating configurations.

Special Segregation of Pipes and Cigars

ER–1091 (44 FR 5071, January 25, 1979) was based partly on a finding that non-smokers require special segregation from pipe and cigar smoke in order to receive "adequate" and "reasonable" service. It leaves the specifics of this special segregation requirement to the discretion of each air carrier. While we expect full and effective compliance with this general mandate, we are also interested in receiving comments on more detailed regulations concerning pipe and cigar smoking.

The Cigar Association filed a petition for rulemaking on December 9, 1977 (Docket 31805), proposing a buffer-zone arrangement between cigar and pipe smokers and non-smokers. In Order 78–5–139 the Board consolidated the Cigar Association's petition with the present rulemaking proceeding. The Cigar Association proposed a three-part approach to the restriction of cigars and pipes: (1) A buffer zone of three rows between non-smokers and any cigar and pipe smoker in coach-class cabin, and of one row in a first class cabin; (2) restriction of cigar or pipe smokers to the window seats or seats closest to an air outtake vent; and (3) a requirement that any cigar or pipe smoking passenger extinguish his cigar or pipe if any other passenger makes such a request through a flight attendant.

This scheme is one approach toward achieving special segregation of pipe and cigar smokers. With some changes, we are including it in the proposal, to stimulate public comment on the subject of more specific rules. We are proposing a seven-row buffer zone between cigar and pipe smokers and non-smokers, and a one-row buffer zone around the total smoking section where there is not an equivalent amount of space or a

[1] *Shimp* v. *New Jersey Bell Telephone Co.*, 368 A. 2d 408 (Superior Ct., Ch. Div., N.J. 1976).

physical barrier between the smoking and non-smoking sections. The Board also proposes and requests comments on buffer zones of any different sizes. For buffer zones to be practicable when the plane is full, they must be occupied by persons who neither smoke nor object to sitting next to the smoking area. Finding persons in this category may involve the offering of incentives by carriers, such as a free drink or higher-class service. We invite comment on all aspects of buffer zones, including experience carriers may have had in using incentives for these or analogous purposes.

Other proposals included here, which will be considered as either cumulatives or alternative possibilities, are the restriction of cigar and pipe smokers to positions nearest the air vents or at the back of the plane, requiring partitions to separate smokers and non-smokers, and a rule requiring putting out cigars or pipes at the request of a non-smoker.

EDR-306, 41 FR 44424, October 8, 1976, proposed a ban on cigar and pipe smoking, and other smoking prohibitions conditioned on the type of aircraft (for example, banning smoking on planes with 30 or fewer seats) and length of flight (for example, banning smoking on all flights of less than one hour). No action has yet been taken on those proposals, but they remain live options for final rule action and are reproposed here. We also propose and request comments on other possible physical bases on which to delineate aircraft on which smoking should be prohibited, such as whether the cabin is pressurized.

Finally, we propose a provision to advise that the Board will consider requests for waivers from one or more of these rules, so that carriers may experiment with various methods of separating smokers and non-smokers or with innovative ventilating devices or other technological solutions. For example, Continental's sandwiching technique might be permitted on a portion of its operations to allow a comparison between multiple and single smoking areas. Another example might be "smoker flights" on second sections of shuttle services on which non-smokers could travel if they wish.

We are not proposing a ban on all tobacco smoking aboard aircraft at this time, although it has been urged in thousands of comments in this proceeding. At this stage our focus is on arriving at a set of restrictions, short of a total ban, that will best accommodate the conflicting desires of the smoking and non-smoking public. We are not ruling out the possibility of such a ban at some future time, but we want the comments in response to this notice to help us in our search among the detailed options, and not to be distracted by the immediate prospect of a total ban.

O'Melia, Member, Concurring: As more and more papers stack up telling us in great and specific detail what to do about smoking aboard aircraft and as more and more individual complaints cross my desk, I have come to the conclusion that we need some reliable scientific tests on the flow of smoke, whether cigar, cigarette or pipe aboard aircraft. We need more hard information, and perhaps less grandiloquence and harangue, before we can, with any confidence, put the smokers in the back of the plane or in the window seats or throw them out altogether.[2] I believe the Board should call upon FAA, DOT, HEW, the National Academy of Sciences, the Bureau of Standards or someone to conduct such tests. If we must decide these touchy questions, we should have specific answers at hand on the effects of tobacco smoking aboard aircraft. Signed Richard J. O'Melia.

Accordingly the Civil Aeronautics Board proposed to amend Part 252 of the Economic Regulations (14 CFR Part 252) to read as set forth below. It should be noted that, as discussed above, some of the provisions would be considered as alternatives and they are set out here cumulatively only to facilitate comment.

PART 252—SMOKING ABOARD AIRCRAFT

Sec.

Authority: Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; (49 U.S.C. 1324, 1374, and 1377).

§ 252.1 Applicability.

This part establishes rules for the smoking of tobacco aboard aircraft. It applies to each direct air carrier that holds a certificate of public convenience and necessity, authorizing the transporation of persons, issued pursuant to Section 401 of the act (hereafter called "carriers"). Nothing in this regulation requires carriers to permit the smoking of tobacco aboard aircraft.

§ 252.1a Special segregation of cigar and pipe smokers.

Carriers shall adopt and enforce rules providing for special segregation of cigar and pipe smokers, and for such other procedures as may be necessary to avoid exposing persons seated in no-smoking areas to smoke from cigars and pipes.

§ 252.1b Special requirements for cigar and pipe smoking.

Each carrier shall enforce the following rules regarding cigar and pipe smoking:

(1) Cigar and pipe smoking shall be limited to an area at least seven rows from the non-smoking section.

(2) A smoking section shall be separated from any non-smoking section by a physical barrier or at least one row or the equivalent distance, that is either vacant or occupied by persons who neither smoke nor object to being seated next to the smoking section.

(3) Cigars and pipes may be smoked only by persons seated closest to the air vent in each row.

(4) The section where cigars and pipes may be smoked must be at the rear of the compartment.

(5) Cigar and pipe smoking shall be prohibited in a compartment if any person seated in the compartment requests such a ban through a flight attendant.

§ 252.2 No-smoking areas.

Carriers shall ensure that non-smoking passengers are not unreasonably burdened by breathing smoke and to that end shall provide at a minimum:

(a) A no-smoking area for each class of service and for charter service;

(b) A no-smoking section of at least two rows of seats;

(c) A sufficient number of seats in the no-smoking areas of the aircraft for all persons who wish to be seated there;

(d) Specific provision for expansion of no-smoking areas to meet passenger demand;

(e) Special provisions to ensure that if a no-smoking section is placed between smoking sections, the non-smoking passengers are not unreasonably burdened.

[2] For example, we say we will consider putting passengers who are particularly susceptible to smoke in the area of the plane freest from smoke. I'm not yet sure just where that is.

(f) That each smoking area shall be separated from any other smoking area by a curtain or partition.

§ 252.2a Ban on smoking when ventilation systems not fully functioning.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco whenever the ventilation system is not fully functioning. A ventilation system shall be considered fully functioning only when all parts are in working order and operating at the capacity designed for normal service.

§ 252.2b Special seating for unusually susceptible persons.

Carriers shall provide special accommodations for persons who are unusually suseptible to physical ill effects from inhalation of tobacco smoke, and who so inform the carrier in advance of the flight. These accommodations shall consist of seating in a location either as far as possible from smoking areas or one shown by objective tests to provide the maximum freedom from smoke.

§ 252.2c Ban on cigar and pipe smoking.

Carriers shall adopt and enforce rules prohibiting the smoking of cigars and pipes aboard aircraft.

§ 252.2d Ban on smoking on short flights.

Carriers shall adopt and enforce rules prohibiting the smoking to tobacco on all flights 1 hour or less.

§ 252.2e Ban on smoking on small aircraft.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco on aircraft with 30 seats or less.

§ 252.3 Enforcement.

Each carrier shall take such action as is necessary to ensure that smoking is not permitted in no-smoking areas and to enforce its rules with respect to the segregation of passengers in smoking and no-smoking areas.

§ 252.3a Waivers.

Carriers may file applications for waivers with the Civil Aeronautics Board, Bureau of Consumer Protection, to be relieved from one or more of the requirements of this part in order to experiment with methods of protecting non-smokers from tobacco smoke to the maximum possible degree.

§ 252.4 Manual containing carrier smoking rules.

Each carrier shall maintain an employee manual containing its rules on smoking by passengers aboard aircraft. Two copies of the manual shall be filed with the Bureau of Pricing and Domestic Aviation, and revisions and amendments shall be filed within 15 days following adoption by the carrier.

§ 252.5 Board may modify carrier rules.

If the Board finds that any carrier rule is at variance with any provision of this part, the Board may by order modify the rule to the extent necessary to make it conform to this part.

(Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; (49 U.S.C. 1324, 1374, and 1377)).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15809 Filed 5-18-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 146]

Foreign-Trade Zones; Proposed Rule Relating to Processing Costs Incurred In Foreign-Trade Zones

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

ACTION: Proposed rule.

SUMMARY: Customs includes the cost of processing "nonprivileged" merchandise in a foreign-trade zone, and profit realized, in the dutiable value of that merchandise when it enters the customs territory of the United States. The present policy results in Customs assessing duty on the costs of American labor, overhead and facilities, and profit. This document requests the public to comment on a proposal to change Customs appraisement practice so as to exclude the cost of processing and profit realized in a foreign-trade zone when determining the dutiable value of articles produced entirely from nonprivileged merchandise (whether foreign or domestic), or from a combination of nonprivileged and privileged merchandise (whether foreign or domestic).

DATE: Comments must be received on or before July 20, 1979.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

Foreign-trade zones ("zones") are established under the Foreign-Trade Zones Act (19 U.S.C. 81a–81u) and the general regulations and rules of procedure of the Foreign-Trade Zones Board contained in 15 CFR Part 400. Part 146 of the Customs Regulations (19 CFR Part 146) governs the admission of merchandise into a zone; manipulation, manufacture, or exhibition of merchandise in a zone, exportation of merchandise from a zone; and transfer of merchandise from a zone into the customs territory of the United States ("customs territory").

Foreign or domestic merchandise may be admitted into a zone for, among other things, manipulation, manufacture, assembly, or other processing, or for storage or exhibition, provided these operations are not otherwise prohibited by law. Normal customs entry pocedures and payment of duty are not required for merchandise located in a zone unless and until the merchandise is removed from a zone and entered into the customs territory.

Upon approval of the required application filed with the district director of Customs (19 CFR Part 146, Subpart C), foreign or domestic merchandise may attain "privileged" status. Privileged foreign merchandise is subject to appraisement and tariff classification according to its condition and quantity, and to the rates of duty and tax in force, on the date the application is filed with the district director, regardless of when the merchandise actually leaves the zone and enters the customs territory. Privileged domestic merchandise may be returned to the customs territory free of quota, duty or tax. A component of foreign privileged merchandise would be appraised and dutiable in its character and condition on the date the application is filed for privileged status. A component of domestic priviledged merchandise would not be included in the dutiable value of the article.

Merchandise admitted to a zone which is not accorded "privileged" status or "zone-restricted" status (as set forth in section 146.25, Customs Regulations (19 CFR 146.25)) is "nonprivileged." Section 146.48(e), Customs regulations (19 CFR 146.48(e)), sets forth the appraisement and tariff classification treatment of articles composed solely of nonprivileged merchandise (whether foreign or domestic) and articles composed both of privileged and nonprivileged merchandise (whether foreign or

domestic). Under section 146.48(e), an article composed in whole or in part of nonprivileged merchandise is subject to appraisement and tariff classification according to its character and condition at the time of its "constructive transfer" to the customs territory. A "constructive transfer" means that the merchanidse is considered to have been transferred to the customs territory without physical removal from the zone, and takes place upon approval of the required application by the district director.

Section 146.48(e) requires the dutiable value of nonpriviledge merchandise to be determined under section 402 or 402a of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Labor and overhead costs incurred, and prifit realized, in the zone are included in the dutiable value of articles composed entirely of, or derived entirely from, foreign or domestic nonprivileged merchandise, and articles composed in part of, or derived in part from, foreign or domestic nonprivileged merchandise and in part of or from foreign or domestic privileged merchandise.

Processing costs and profit attributable to nonprivileged merchandise or nonprivileged components are included in the dutiable value of the article when it subsequently enters the customs territory. Since 1954, Customs has ruled (Treasury Decision 53493(2)) that when privileged and nonprivileged components (foreign or domestic) are combined in a zone to produce an article, the processing costs incurred must be distributed between the privileged and nonprivileged components according to their relative values. Consequently, the effect of section 146.48(e) is to assess duty on the use of American labor and facilities, overhead expenses and profit, thus increasing the cost of utilizing a zone.

An advance notice of proposed rulemaking inviting comments on the advisability of changing current Customs appraisement practice to exclude the cost of American labor, overhead and facilities, and profit when determining the dutiable value of articles produced entirely or in part from nonprivileged foreign merchandise in a zone was published in the Federal Register on October 4, 1978 (43 FR 45885). The vast majority of the comments received favored the proposed change in appraisement practice ("proposal") as set forth in the advance notice.

Discussion of Possible Economic Effects

The present appraisment method by which Customs duties are assessed is considered by most zone proponents to be a deterrent to the establishment of new facilities in zones, and an impediment to the avowed purposes of zones, to help expand U.S. employment and U.S. foreign commerce and to assist American business by enabling the processing and manufacture of certain types of articles at lower costs. However, those opposed to the proposal argue that it would lead to a net loss of jobs in the United States and would result in economic injury to U.S. manufacturers of parts and components, as well as to U.S. manufacturers of finished products. The question to be analyzed, therefore, is whether the proposal will indeed lead to a net increase in U.S. employment and lower costs for U.S. industries, or whether it would be counterproductive. The answer to this question requires a determination of (1) who would benefit from the proposal and (2) who would be affected adversely by the change.

Generally, most zone proponents view the proposal as instrumental to the fulfillment of the congressional objective underlying the establishment of the zones, namely the expansion of U.S. industry and labor. Also, adoption of the proposal is considered to be anti-inflationary, and could provide greater investment opportunities in the United States as well as increased employment and additional tax revenues.

Effect on U.S. Manufacturers

At present, only about 10 percent of the space in zones is used for manufacturing. The proposal likely will result in the opening of new manufacturing/assembly facilities in a zone and perhaps requests for the establishment of new zones. Industries which would benefit most are those that normally request nonprivileged status for foreign parts and components because the parts and components have higher duty rates than the finished products. Under present appraisement practice, these industries are able to bring high-duty foreign parts and components into a zone, process or manufacture them into a finished product, and pay the (lower) duty rate of the finished product. Implementation of the proposal (in which U.S. labor, processing, and profit would not be dutiable) could result in significant cost savings for those industries, and could provide further incentives for those industries to establish or expand their processing or manufacturing capabilities in zones. Moreover, some U.S. manufacturers could realize cost savings by switching processing/manufacturing operations from foreign localities to zones in the United States.

A number of companies have indicated that the proposal would be of importance in any decision to expand or establish operations in a zone. Specifically, firms producing the following products and product parts could be encouraged by adoption of the proposal to increase their usage of zones: automobiles, motorcycles, snowmobiles, computers, electronics and audio equipment, television receivers and components, scientific instruments, medical equipment and supplies, watches, cameras, typewriters, piano components, meat packing, textiles, and athletic footwear. To reiterate, the expansion of these industries into zones could lead to significant growth in zone operations due to the structure of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), which, because of higher duties on some foreign parts and components rather than on finished products, sometimes may serve as a disincentive to assembly or manufacturing in the United States. In addition, some U.S. manufacturers of parts and components also could stand to benefit from adoption of the proposed rulemaking, since over a period of time there could be some substitution of U.S. parts and components for foreign parts and components in the zones.

On the other hand, it is possible that some U.S. manufacturers of parts and components as well as of finished products could be affected adversely by the proposal. By making the utilization of (nonprivileged) foreign parts and components immediately more attractive, the proposal could lead to the substitution of foreign parts and components for U.S. parts and components. However, the Foreign-Trade Zones Board, U.S. Department of Commerce, has the authority to screen carefully operations in zones to assure that they do not harm the public interest.

The proposal also could benefit manufacturers in certain geographical areas. This could occur because the proposal would end current disparities resulting from the location of some zones in areas where real estate and labor costs are high.

Effect on Employment

Approximately 5,000 persons currently are employed in zones. The number of new jobs that could be created by the proposal is unknown. However, any gain in employment could be diminished somewhat by a possible loss in employment if there were a major shift away from U.S. parts manufacturers in favor of increased usage of foreign parts. On the other hand, it is likely that the

proposal could encourage a number of U.S. manufacturers not to move their operations overseas, or encourage them to reestablish operations in the United States which are currently offshore. It also could encourage foreign companies who presently ship finished products to the United States to set up operations within the United States. In this way, employment in the United States could be increased.

Effect on Foreign Investment in the United States

With regard to the question of new foreign investment created by the proposal, indications are that there could be some increase in that investment, although the extent to which foreign companies increasingly would invest in the United States is unknown.

Effect on U.S. Imports

The effect of the proposal on U.S. imports could be to increase U.S. imports of foreign parts and components into zones, while causing a decrease in imports of finished products. During FY 1977, approximately $180 million in foreign parts, components, and malleable, transformable materials (excluding crude petroleum) entered zones. It is possible that those imports into zones could increase substantially over the next few years if the appraisement practice were to be changed.

Effect on U.S. Exports

One of the major reasons for the establishment of zones was to encourage U.S. exports by enabling foreign parts and components to be imported duty-free and combined with U.S. materials to produce finished products for export. This procedure is the current rationale for setting up zones in developing countries, where labor is less costly, unemployment is high, and manufacturing/export capabilities are desired. In U.S. zones, however, exports and re-exports have not been especially prominent; in FY 1978, about 31 percent of goods forwarded from zones were exported. It is anticipated that the proposal will have only a marginal impact on exports, since it applies only to valuation of goods which are imported. Any increase in exports which would occur would be a result of the anticipated increase of activity within the zones.

Effect on Customs Revenues

The proposal could lead to a net decrease in Customs revenues. Not only would the U.S. cost of labor, processing, and profit no longer be dutiable, but also high-duty foreign parts and components increasingly could be transformed in zones into lower-duty finished products. Moreover, the expected decrease in finished products directly entering the United States could lead to lower revenues. However, this net decrease in revenue is expected to be somewhat offset by the increased volume and value of foreign goods which might be processed and transformed in zones, due to the upsurge in manufacturing and other activity which is anticipated.

Effect on the U.S. Balance of Trade

The proposal is likely to have a positive benefit on the U.S. balance of trade. Although the change could lead to some increase in zone imports of parts, components, and raw materials, there also could be a resulting decrease in direct imports of finished products; thus, the net value of direct imports could decrease, since the values of imported parts, etc., would be lower than the value of finished products. Moreover, some of the new manufacturing which could occur in zones due to the change ultimately may be exported, which again could benefit the balance of trade.

Effect on the General U.S. Economy

The proposal, to the extent that it lowers the cost of processing and manufacturing in the United States, is anti-inflationary. In addition, the proposal could afford an added tax base provided there in an increase in employment and the scope of operations in the zones. Above all, the proposal could contribute to increased assembly and manufacturing in the United States by both U.S. and foreign firms.

Circumvention of Quotas

It is possible that adoption of the proposal, resulting in the increased use of zones, could lead to the circumvention of existing "quotas". Depending on the specific language of a particular quota provision, foreign producers may export "quota" goods to zones, process them, and then transport the finished article into the United States free of any quantitative restriction.

Conclusion

Although the proposal could lead to some substitution of foreign parts and components for domestic ones, or could result in some circumvention of import quotas, it is anticipated that the proposal would be beneficial to U.S. industries, employment, and the general U.S. economy, by attracting increased assembly and manufacturing operations to the United States. Customs is particularly interested in comments which might affect this conclusion and will fully consider all such information before making a final decision on this matter. These comments should be as specific as possible.

Authority

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), and section 8, 48 Stat. 1000 (19 U.S.C. 81h).

Comments

Customs invites written comments (preferably in quadruplicate) from all interested parties on the proposal to change its appraisement practice so as to exclude the cost of processing and profit when determining the dutiable value of articles produced entirely or in part from nonprivileged components in zones. Comments are desired particularly on the possible economic effects of the proposal. Comments made on the advance notice of proposed rulemaking will be considered to have been made in response to this notice and will be considered fully before deciding on whether a final rule should be published. Accordingly, unless the commenters to the advance notice wish to provide additional comments or elaborate on previously made comments, they need not respond to this notice.

Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Inapplicability of E.O. 12044

The document is not subject to the Department of Treasury directive implementing Executive Order 12044, Improving Government Regulations, because the regulation was in the process of preparation prior to May 22, 1978.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Treasury Department participated in its development.

Proposed Amendment

It is proposed to amend § 146.48(e), Customs Regulations (19 CFR 146.48(e)),

by replacing the period at the end of the section with a comma and adding the following:

146.48 Treatment of merchandise not elsewhere provided for in this subpart.

* * * * *

(e) *Appraisement and tariff classification.* * * * except that the processing costs incurred, and the profit realized, in a foreign-trade zone shall be excluded when determining the dutiable value of articles produced entirely from nonprivileged merchandise (whether foreign or domestic), or from a combination of nonprivileged and privileged merchandise (whether foreign or domestic).

Robert E. Chasen

Commissioner of Customs.

Approved: April 24, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-15565 Filed 5-18-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4997]

National Flood Insurance Program; Proposed Flood Elevation Determination for the City of Quincy, Adams County, Ill.

Correction

In FR Doc. 79-2388, appearing at page 5465 in the issue of Friday, January 26, 1979, on page 5466, in the middle column, in the table, correct the location for Tributary 3 to read "1400 feet upstream of Burlington Northern Railroad".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 114]

Procedures for Collection, Deposit, Investment, Interest Computation and Payment of Proceeds of Affected Lands Withdrawn for Native Selection Pursuant to the Alaska Native Claims Settlement Act

May 8, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed revision to 25 CFR Part 114.

SUMMARY: Notice is hereby given that it is proposed to revise Part 114 of Title 25 of the Code of Federal Regulations. The revision adds those procedures the Commissioner of Indian Affairs proposes to use to invest and pay out, together with interest, funds collected and deposited into an escrow account established under the provisions of Pub. L. 94-204 as it amends the Alaska Native Claims Settlement Act for proceeds derived from contracts, leases, permits, and rights-of-ways or easements pertaining to affected lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act. The deposit procedures for the escrow account have been published in Part 114 of the Code of Federal Regulations.

DATE: Comments must be received on or before June 20, 1979.

ADDRESS: Comments are to be sent to: Chief, Division of Accounting Management, Bureau of Indian Affairs, P.O. Box 127, Albuquerque, New Mexico, 87103.

FOR FURTHER INFORMATION CONTACT: Barton W. Wright, 505-766-3496, FTS 474-3496; and Donald M. Gray, 505-766-3496, FTS 474-3496

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM 8. This revision is proposed pursuant to the authority contained in the Act of January 2, 1976 (89 Stat. 1145, (43 U.S.C. 1613).

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Primary author of this document is Donald M. Gray, P.O. Box 127, Albuquerque, N.M. 87103 Phone: (505) 766-3496.

PART 114—PROCEDURES FOR COLLECTION, DEPOSIT, INVESTMENT, INTEREST COMPUTATION AND PAYMENT OF PROCEEDS OF AFFECTED LANDS WITHDRAWN FOR NATIVE SELECTION PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec.

Authority.—89 Stat. 1145.

§ 114.1 Purpose.

The purpose of the regulations in this part is to describe the procedure to be used by all Departments and Agencies of the Federal government and the State of Alaska for the collection and deposit of proceeds derived from contracts, leases, permits, and rights-of-way or easements pertaining to affected lands or resources in affected lands withdrawn for native selection pursuant to the Alaska Native Claims Settlement Act and to describe the procedures for the investment, interest computation and payment of such proceeds by the Bureau of Indian Affairs.

§ 114.2 Definitions.

(a) *Affected lands* means those lands that on January 1, 1976, were withdrawn by or pursuant to sections 11, 14, 16, 17(d)(2)(E), or 19 of the Alaska Native Claims Settlement Act (ANCSA) for Native selection and, from the time of withdrawal, lands subsequently withdrawn for Native selection by, under, or pursuant to the ANCSA and amendments thereto, and for so long as these lands remain withdrawn for Native selection and conveyance.

(b) *Conveyance* means the issuance of a document which conveys legal title.

(c) *Escrow account* means an account entitled "Deposits of Proceeds of Lands Withdrawn for Native Selection, Bureau of Indian Affairs", which has been established in the Treasury of the United States pursuant to section 2(a) of the Act for deposit, withdrawal, and disbursement of proceeds.

(d) *Grantee* means the individual, association, corporation, or other Native entity that receives a conveyance from the United States under the ANCSA, as amended.

(e) *Payment* means (1) disbursement of proceeds and appropriate interest and investment return of monies in the escrow account to the grantee of the surface and/or subsurface estate, (2) disbursement of proceeds of monies in the escrow account into the appropriate federal account as provided in section 2 (a) of the Act, or (3) deposit into miscellaneous receipts of the Treasury of the interest and investment return accruing to proceeds that are to be

returned to the appropriate federal account.

(f) *Proceeds* means all monies received on or after January 1, 1976, from contracts, leases, permits, rights-of-way, or easements pertaining to affected lands, or the resources thereof, except (1) filing and similar administrative fees, (2) trespass and similar damages, and (3) all income received by the Federal Government which is a reimbursement of federal expenses. Proceeds from contracts, leases, permits, rights-of-way, or easements involving the subsurface resources of lands within Naval Petroleum Reserve No. 4 and units of the National Wildlife Refuge System are not subject to the provision of section 2 of the Act, except those proceeds which may derive from the specific Kenai National Moose Range lands identified for conveyance in section 12 of the Act.

(g) *Withdrawn* means that lands have been set aside either by section 11(a)(1) or (2) or 16(a) or (d) of the ANCSA, as amended, or a positive action by the Secretary of the Interior in the form of a Public Land Order for selection by native entities under the ANCSA.

§ 114.3 Collection of proceeds.

(a) The office, bureau, or agency administering lands in Alaska subject to section 2 of the Alaska Native Claims Settlement Act is responsible for determining and collecting amounts due from contracts, leases, permits, rights-of-way or easements pertaining to the affected lands.

(b) All Departments or Agencies of the Federal Government and the State of Alaska receiving such proceeds are to devise and maintain a record which includes (1) the identity of the specific contract, lease, etc., involved; (2) the statutory authority under which the proceeds were collected; (3) the account to which the proceeds would have otherwise been deposited; (4) the specific description of the lands involved in the contract, lease, etc.; (5) whether the proceeds were derived from the surface or subsurface estate; and (6) deposit information as described in §§ 114.5 and 114.6.

§ 114.4 Deposit of proceeds—Escrow account.

All Departments or Agencies of the Federal Government and the State of Alaska will deposit the proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to affected lands or resources in affected lands in an escrow account in the Treasury of the United States entitled, "Deposits of Proceeds of Lands Withdrawn for Native Selection, Bureau of Indian Affairs". The depositing office, bureau, or agency is to advise the Commissioner—Indian Affairs of all deposits.

§ 114.5 Deposit of proceeds received by Federal offices, bureaus, and agencies.

(a) *Direct deposits.* (1) Depositor will prepare Deposit Ticket (SF 215), using Agency Accounting Station Code 14–20–0650.

(2) In Block (6) Fund Symbol 14×6140 will be inserted as well as the following: Credit to Bureau of Indian Affairs, Branch of Finance and Accounting, P.O. Box 127, Albuquerque, New Mexico 87103.

(3) Memorandum copy and confirmed copy of Deposit Ticket will be mailed to above address, immediately upon completion and confirmation.

(4) Depositor will provide information (lease, contract or other identification) which will identify each deposit with a particular plot of affected land. This information can be shown in Block (6) of the SF 215 if space permits, or on an attached listing. The information must be in sufficient detail to permit positive identification to the specific affected lands from which the proceeds were derived and must provide the date of original deposit.

(b) *Periodic Deposits.* (1) In some circumstances, collection from Withdrawn Lands will be in such small amounts and such frequency as to be administratively burdensome to make individual direct deposits to the escrow account or escrow funds may be mixed with collections to be credited to other funds. In such instances depositing agencies may initially deposit the collections to their own suspense account. Such deposits will then be transferred to the escrow account 14×6140 no less frequently than monthly. Interest is earned on the proceeds from the confirmed date of receipt to the depositors suspense account instead of the escrow account 14×6140. The "Pay to" side of the SF 1081 will be completed as follows:

Department, Interior, Bureau, Indian Affairs, Agency Station Symbol, 14–20–0650, Address, P.O. Box 127, Albuquerque, New Mexico 87103, Appropriation or Fund Symbol, 14×6140.

and will be supported by sufficient detail to permit positive identification of each deposit, the specific affected land from which derived and date of original deposit into the depositor's suspense account. An advance copy of the SF 1081, with supporting documentation will be forwarded to the BIA at Albuquerque immediately.

(2) Agencies not using the SF 1081 procedures will issue a check made payable to the Treasurer of the United States, and forward it to:

Juneau Area Office, Bureau of Indian Affairs, P.O. Box 8000–B, Juneau, Alaska 99802

accompanied by a listing containing the same information as required for a SF 1081 transfer.

§ 114.6 Deposit of proceeds received by the State of Alaska.

The State agency responsible for making collections will deposit the proceeds to the credit of the State of Alaska. A check will then be issued, payable to the Treasurer of the United States, and will be forwarded to the Juneau Area Office, Bureau of Indian Affairs, accompanied by a detailed listing providing information which will permit indentification of the funds with each particular parcel of affected land. The BIA Juneau Area Office will deposit all such receipts to the escrow account 14×6140, forwarding the memorandum copy to the Branch of Finance and Accounting immediately, together with the detail information described above provided by the State of Alaska.

§ 114.7 Investment of proceeds.

As the balance of funds on deposit in the escrow account 14×6140 reaches $10,000.00, the funds will be withdrawn and invested by the Branch of Investments, Bureau of Indian Affairs pursuant to 25 U.S.C. 162a. Funds will be invested as a single fund, with interest being computed monthly. Investment interest earnings will be reinvested at maturity of related investment.

§ 114.8 Payment from the escrow account.

Upon issuance of a conveyance document to a Native entity, the Director, Bureau of Land Management will furnish the Commissioner—Indian Affairs, and the head of any other agency known by the Bureau of Land Management to be administering all or part of the affected lands, a copy of the conveyance document.

(a) *Determination of amount of proceeds due.* The Agency administering the affected land conveyed will determine the proceeds due the ANCSA grantee from contract, lease, permit, rights-of-way, or easement collected on the affected land. The determination will be on the percentage of acreage conveyed included in the proceeds deposited in the escrow account. Where the contract, lease, permit, right-of-way, or easement does not fall entirely within the conveyed land or interest, the grantee shall receive a payment based

on the proportionate amount that results from multiplying the total proceeds and appropriate interest and investment return attributable to the contract, lease, etc., by a fraction in which the numerator is the acreage of the contract, lease etc., falling within the conveyance and the demoninator is the total acreage within the contract, lease, etc. However, in the case of timber sale contracts involving more than one specific cutting area, each such cutting area will be considered a separate "contract" for purposes of computing the payment. Thus, if the entire cutting area falls within the area conveyed, the entire proceeds from that cutting area shall be paid. If only a portion of the cutting area falls within the area conveyed, the prorate amount as provided above shall apply.

(b) *Payment data required by BIA.* The agency administering the land shall provide the following information to the Commissioner—Bureau of Indian Affairs:

(1) The name and current address of the ANCSA grantee.

(2) The total amount of proceeds deposited in the escrow account due the grantee and the fraction, if applicable, as determined by the procedure described in § 114.8(a).

(3) List of Treasury deposits due grantee showing amount of each deposit, date of each deposit, and Deposit Ticket (SF 215) number. Note that if the deposit(s) to the escrow are periodic (§ 114.5(b)) the date of deposit is that for the agencies suspense account, not the date of transfer to the escrow.

(4) Reference to or a copy of the BLM land conveyance to the grantee.

(5) Certification by head of the agency administering the land conveyed that the amount of deposited proceeds requested to be paid from the escrow are due and payable to the grantee. The above information is to be submitted to the following address:

Division of Accounting Management, Bureau of Indian Affairs, P.O. Box 127, Albuquerque, New Mexico 87103.

(c) *Computation of interest factor.* The Branch of Investments, Bureau of Indian Affairs, shall compute an interest factor for invested funds by determining the total dollar-days of capital (including previously earned interest) in each monthly interest period and dividing that total into the interest earned through investments for that period. Dollar-days are defined as the total number of dollars in investments at the end of each calendar day. The interest factor so calculated shall be applied to each deposit to determine the total amount due for payment. The interest factor for the preceding interest period shall be used to compute earnings on payments during the interest period current at the time of payment.

(d) *Payment of proceeds plus interest earnings.* Payment requests received by the BIA on and after the 15th of a month shall normally be paid on or before the 15th of the succeeding month, but no later than 30 days from the date of receipt of the request. The Division of Accounting Management, Bureau of Indian Affairs, will compute the amount of interest earnings payable. Treasury interest on escrow deposits will be computed semiannually from the date of each deposit with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing during each semiannual interest period the rate prevailing for the preceding semiannual interest period will be used to compute earnings on payments from the escrow to a grantee during the interest period current at time of payment. Interest on invested escrow deposits will be determined by applying the factor computed in paragraph (c) of this section. The Division of Accounting Management will prepare a voucher for payment of the appropriate proceeds, Treasury interest and investment earnings. Payment will be by U.S. Treasury check.

§ 114.9 Proceeds from affected lands not conveyed.

In an area where (a) there have been no selections and the selection period has terminated, (b) the selections have been rejected and the decision is final, or (c) the final action has been taken on all pending selections by Native entities, the Director, BLM, shall inform the Commissioner—Indian Affairs and the head of any other agency known by BLM to be administering the affected lands of the description of lands not selected or conveyed. Agencies administering affected lands should provide the Commissioner—Indian Affairs with a list of those accounts where the final action has been taken so that the Commissioner—Indian Affairs may (1) return any remaining proceeds in the escrow account attributable to such lands to the appropriate Federal account to which they would have otherwise been deposited; (2) deposit the interest and investment return attributable to the remaining proceeds to miscellaneous receipts, Treasury; and (3) notify the "original" collection agency of such return.

§ 114.10 Reports and reconciliations.

The Commissioner—Indian Affairs will provide no less frequently than semiannually a statement of total deposits received and disbursements made during the period covered by the statement to the depositing administering agency of the affected lands for reconciliation purposes. Differences will be immediately communicated by the administering agency to the Bureau of Indian Affairs with a listing of all deposits made during the reporting period.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-15800 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 79-040]

Drawbridge Operation Regulations; Blackwater River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisville and Nashville (L&N) Railroad Company, the Coast Guard is considering changing the regulations governing the L&N railroad bridge across the Blackwater River, Milton, Florida, by requiring 8 hours advance notice be given from 8 p.m. to 4 a.m. This change is being considered because of limited requests for openings during this period. This action may relieve the bridge owner of the burden of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before June 18, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments,

data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Eighth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

These proposed regulations are being considered in an effort to relieve the bridge owner of the responsibility of having a draw tender constantly on duty. The data submitted by the applicant showed that there were a total of 760 openings from September 1977 through August 1978. Of these, 87 or 11.4 percent were from 8 p.m. to 4 a.m. To express this differently, there is approximately one opening every four days from 8 p.m. to 4 a.m. Based on these data the Coast Guard feels that this proposal will probably meet the reasonable needs of navigation. Public comment is requested.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by adding a new § 117.245(i)(6-b) immediately after § 117.245(i)(6-a) to read as follows:

PART 117—DRAWBRDIGE OPERATION REGULATIONS

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(6-b) Blackwater River, Florida. The draw of the Louisville and Nashville railroad bridge at Milton shall open on signal from 4 a.m. to 8 p.m. From 8 p.m. to 4 a.m. the draw shall open on signal if at least 8 hours notice is given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5)).

Dated: May 10, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-15812 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 157]

[CGD 76-075]

Certain Existing Tank Vessels Segregated Ballast; Withdrawal of Proposal

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposal.

SUMMARY: The Coast Guard published an advance notice of proposed rule making in the **Federal Register** of May 13, 1976 (41 FR 19672) for the purpose of soliciting comments from the public on the cost of retrofitting existing tank vessels of 70,000 DWT and over for segregated ballast capability, the inflationary impact of requiring retrofitting, and the technical and other problems that could be expected during and as a result of implementing this concept. This proposal has been incorporated in, and superseded by, the proposed rules for tank vessels of 20,000 DWT or more carrying oil in bulk, which were published in the **Federal Register** of February 12, 1979 (44 FR 9894). Consequently, the Coast Guard is withdrawing the proposed regulatory project, CGD 76-075.

FOR FURTHER INFORMATION CONTACT: Commander George F. Ireland, Merchant Marine Technical Division (G-MMT-1/82), Room 8207, U.S. Coast Guard, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590 (202-426-4431).

SUPPLEMENTARY INFORMATION: The principal persons involved in drafting this withdrawal are Mr. Frank K. Thompson, Regulations Specialist, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

(46 U.S.C. 391a and 49 CFR 1.46(n)(4))

Dated: May 9, 1979.

W. D. Markle, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 79-15811 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Ch. I]

[FRL 1232-4]

Indiana-Kentucky Power Co.; Notice of Proceedings under Section 126—Clean Air Act, Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proceedings under Section 126 of the Clean Air Act.

PURPOSE: The purpose of this notice is to solicit public comment on the issue of whether the Indiana-Kentucky Power Company, Clifty Creek Power Plant, located in Jefferson County, Indiana emits sulfur dioxide in violation of the prohibition of section 110(a)(2)(E)(i) of the Clean Air Act, to request the submission of factual information on this issue, and to give notice that a public hearing will be held to assist the Adminstrator in determining whether a finding should be made pursuant to section 126 (b) and (c) of the Clean Air Act.

DATES: Public hearing date June 20, 1979; Requested Deadline for submission of notice of appearance at the public hearing June 13, 1979; Requested Deadline for submission of written comments and factual information for incorporation into the public hearing and presentations June 13, 1979; Requested Deadline for submission of written materials and closing of public hearing record July 6, 1979.

ADDRESSES: The hearing will be held at the Canterbury Room of the Executive Inn, located at the Junction of Interstate 65 and Interstate 264 (Waterson Expy. at Fairgrounds), Louisville, Kentucky. The hearing will be convened at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Gade, Assistant Regional Counsel Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2205.

SUPPLEMENTARY INFORMATION:

Background

The United States Environmental Protection Agency (USEPA) has been petitioned by the Governor of the Commonwealth of Kentucky to initiate proceedings pursuant to section 126 (b) and (c) of the Clean Air Act as amended in 1977 (42 U.S.C. 7401 *et seq.*). The petition concerns sulfur dioxide emissions from the Indiana-Kentucky Power Company, Clifty Creek Power Plant, in Jefferson County, Indiana.

Section 126(b) authorizes any state or political subdivision to petition the Administrator of the USEPA for a finding that any major source emits or will emit an air pollutant in violation of the prohibition of section 110(a)(2)(E)(i) of the Clean Air Act. This section prohibits any stationary source within a state from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other state of any national primary or secondary ambient air quality standard, or intefere with measures required to be included in the applicable implementation plan for any other state under Part C of the Act to prevent significant deterioration of air quality or to protect visibility. After public hearings, the Administrator either makes a finding that seciton 110(a)(2)(E)(i) is being violated or denies the petition. If the finding is made, section 126(c) provides that operation of the source for more than three months after the finding has been made shall be a violation of the applicable implementation plan unless the Administrator permits continued operation of the source conditioned on its compliance with emission limitations and compliance schedules provided by the Administrator. Compliance with the requirements contained in section 110(a)(2)(E)(i) must be as expeditious as practicable but no later than three years after the date of such finding.

Issues

(1) Whether sulfur dioxide emissions from the Indiana-Kentucky Power Company, Clifty Creek Power Plant, in Jefferson County, Indiana, prevent attainment or maintenance in the Commonwealth of Kentucky of the national primary or secondary ambient air quality standards for sulfur dioxide, or interfere with measures required to be included in the Kentucky State implementation Plan under Part C of the Act to prevent significant deterioration of air quality or to protect visibility.

(2)If a positive finding is made, what is an appropriate emission limitation and compliance schedule for this source?

Conduct Of Public Hearings

A panel of Agency officials will conduct an informal, legislative type public hearing on the above issues. Although no cross-examination will take place at the hearing, the panel may ask questions of witnesses to clarify issues or to make the record complete. Written questions directed at the witnesses may be submitted to the panel by members of the audience. Any person wishing to make a presentation or submit material for inclusion in the hearing record should provide written notice of this intention to Ms. Gade by June 13, 1979, at the address given above. This notice should include the following information: 1) name(s), title(s), and affiliation(s); 2) amount of time necessary for presentation; 3) 8 copies of an outline of the presentation or, if available, the full text of the presentation; 4) 8 copies of material to be included in the record. The time allotted for each presentation will depend on the number of persons seeking an opportunity to appear.

A verbatim transcript of the hearing, copies of written statements, and copies of other material will be made available for public inspection and copying during normal working hours at the U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604 and at U.S. Environmental Protection Agency Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Submission of Written Materials

USEPA solicits and will accept written materials relevant to the issues set forth above from all interested parties. Eight copies of the material must be submitted. We encourage the filing of written statements prior to the hearing, but they may be filed at the hearing itself. The public hearing record will be kept open until July 6, 1979 to provide an opportunity for the public to submit rebuttal and supplementary information on the data presented at the hearing. Written materials should be submitted to Ms. Gade at the above address.

The Agency recognizes that interested persons may require a period of time prior to the hearing to read the written submissions of other interested parties so that informed comments can be made at the public hearing. All written comments prior to the public hearing will be available for public inspection and copying during normal working hours at the following address: U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Final Determination Under These Proceedings

The EPA recommendations will be based upon the preponderance of the evidence of record and will be announced in the **Federal Register** in the form of a proposal upon which the public will be given an opportunity to comment. Final action, following the public comment period, will be announced in the **Federal Register**.

May 15, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-16015 Filed 5-18-79; 10:00 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1229-2]

Approval and Promulgation of Implementation Plans; Availability of 1979 Implementation Plan Revisions for Nonattainment Areas in Florida

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of availability.

SUMMARY: EPA announces today that the Florida implementation plan revisions due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection. The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the **Federal Register** later; the period for the submittal of written comments will extend for 30 days after the publication of the Notice of Proposed Rulemaking.

ADDRESSES: The Florida submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

In addition, the Florida revisions may be examined at the offices of the Florida Department of Environmental Regulation, Bureau of Air Quality Management, 2600 Blair Stone Road, Tallahassee, Florida, 32301. Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland St., N.E., Atlanta, Georgia, 30308.

FOR FURTHER INFORMATION CONTACT: Brian Mitchell of EPA's Region IV Air Programs Branch by telephone at 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1978, the Administrator designated a number of

areas in Florida as non attainment (43 FR 8962). Florida has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that these have been formally submitted and are available for public inspection. Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: May 9, 1979.

John C. White,

Regional Administrator, Region IV

[FR Doc. 79-15656 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1228-6]

Availability of Implementation Plan; Revision for Nonattainment Areas in Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This is a notice of the availability of Texas State Implementation Plan (SIP) revisions for review and comment. The revisions were approved by the Governor on April 13, 1979, to fulfill the requirements of the Clean Air Act Amendments of 1977.

DATES: Interested persons are invited to submit comments on the Texas SIP revisions on or before June 20, 1979.

ADDRESSES: Written comments may be sumitted to the address below.

Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the Texas SIP revisions are available for inspection during normal business hours at the EPA Regional Office above and at the following addresses:

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

Texas Air Control Board, 8520 Shoal Creek Boulevard, Austin, Texas 78758.

In addition, the revisions may be examined at the following regional offices of the Texas Air Control Board (TACB).

Region 1 Office—TACB, 1218 N. 4th, Suite 205, Abilene, Texas 79601.

Region 2 Office—TACB, Briercroft Office Park, Bldg. 15, Lubbock, Texas 79412.

Region 3 Office—TACB, 1512 Lake Air Drive, Suite 114, Waco, Texas 76710.

Region 4 Office—TACB, Matz Bldg., Room 201, 513 E. Jackson, Harlingen, Texas 78550.

Region 5 Office—TACB, 1305 Shoreline Blvd., Suite 124, Corpus Christi, Texas 78401.

Region 6 Office—TACB, 835 Tower Street, Odessa, Texas 79760.

Region 7 Office—TACB, 5555 West Loop, Suite 300, Bellaire, Texas 77401.

Region 8 Office—TACB, 3915-A Highway 377, (Benbrook Hwy.), Fort Worth, Texas 76116.

Region 9 Office—TACB, 4538 Centerview Dr., Suite 130, San Antonio, Texas 78228.

Region 10 Office—TACB, 600 Pine Street, Beaumont, Texas 77701.

Region 11 Office—TACB, 9615 Sims Drive, El Paso, Texas 79925.

Region 12 Office—TACB, 1304 South Vine Avenue, Tyler, Texas 75701.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Environmenatal Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTAL INFORMATION: The revisions to the Texas SIP were adopted and submitted in accordance with the requirements of 40 CFR 51.4 and 51.6. The SIP revisions are intended to provide attainment and maintenance of the national ambient air quality standards in the nonattainment areas of Texas identified under Section 107 of the Act (43 FR 9016).

The pollutants and areas involved are shown below.

Pollutant	Area
Carbon monoxide	El Paso
Oxidants (ozone)	Bexar County
	Brazoria County
	Dallas County
	Ector County
	El Paso County
	Galveston County
	Gregg County
	Harris County
	Jefferson County
	McLennan County
	Nueces County
	Orange County
	Tarrant County
	Travis County
	Victoria County
Particulate matter	El Paso
	San Benito
	Brownsville
	McAllen
	Progresso
	Corpus Christi
	Dallas
	Fort Worth
	Harris County
	Texas City
	Eagle Pass
	San Antonio

Subsequent to these designations under Section 107, the State of Texas determined that Travis and McLennan Counties, designated as nonattainment for ozone, are now meeting the national ambient air quality standard, due to the recent promulgation of the new ozone standard. The State also determined that for eleven areas, designated as nonattainment for particulate matter, three should be redesignated as attainment on the basis of the Rural Fugitive Dust Policy, and eight should be redesignated as unclassified on the basis of unacceptably sited monitors. Texas Air Control Board Resolution R79-2 has been submitted requesting redesignation of these areas.

The EPA is currently reviewing the revisions to Texas' SIP. the Agency's intended action regarding approval of the revisions will be proposed in the **Federal Register** at a later date. An additional public comment period of at least 30 days will be provided at that time.

This notice is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: May 1, 1979.

Earl N. Kari,

Acting Regional Administrator.

[FR Doc. 79-15653 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1228-8]

Approval and Promulgation of Implementation Plans; California Plan Revision: Administrative Chapters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: On December 29, 1978, and March 29, 1979, the California Air Resources Board (ARB) submitted a revision to the State Implementation Plan (SIP) to the EPA. This revision consists of six administrative chapters. The six chapters present an overall statewide perspective on air quality and outline specific State programs dealing with emission source compliance procedures, air quality monitoring, surveillance of emission sources, resources to implement the SIP, and intergovernmental relations. The intended effect of this revision is to address certain requirements of section 110 of the Clean Air Act (CAA), as amended, and 40 CFR Part 51, to update the SIP, and to inform the public on these matters. The EPA invites public comments on this revision, especially as to its consistency with the CAA.

DATES: Comments may be submitted up to June 20, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air

Technical Branch, Regulatory Section (A–4–2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the revision and the evaluation report are available for public inspection during normal business hours at the EPA Region IX Library at the above address and at the following locations:

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, Regulatory Section, Air & Hazardous Materials Division, EPA, Region IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

The CAA was enacted by Congress in 1963 and amended several times thereafter. Under the CAA, the EPA established National Ambient Air Quality Standards (NAAQS) for certain pollutants. Each State was required to adopt a plan (the SIP) to attain and maintain the NAAQS throughout the State.

The State of California adopted an SIP and submitted it to the EPA in 1972. That plan was partly approved and partly disapproved. Since 1972, the SIP has been amended in part many times, becoming somewhat fragmented in the process. For this reason, the ARB is in the process of revising and updating its overall plan. The six chapters now being considered in this notice are part of that task.

Description

The six chapters of the revised California SIP addressed in this notice are summarized as follows:

Chapter 2, *Statewide Perspective:* The current status of air quality, with respect to seven pollutants, is presented for the State, its air basins, and its counties. Eleven-year trends for three pollutants are depicted. Various issues relating energy to air quality are discussed. The history of air pollution control efforts in California is reviewed.

Chapter 20, *Compliance:* This chapter is intended to respond to the compliance requirements of 40 CFR 51.15 (Compliance Schedules) and Part 65 (Delayed Compliance Orders). For stationary sources, the procedures for granting variances are described, as are Federal compliance actions and ARB enforcement actions. Standards for mobile sources are briefly mentioned. Chapter 20 also includes three appendices, covering (a) relevant portions of the Clean Air Act and the State Health and Safety Code, (b) a list of variances submitted by ARB in 1976 and 1977, and (c) the text of 40 CFR Part 65.

Chapter 22, *Air Quality Monitoring:* The present air quality monitoring network, including its purposes, siting criteria, and station locations, both permanent (EPA-required) and supplementary, is described. Most of the text is devoted to "Issues and Anticipated Actions," listing unresolved problems and aspects of monitoring which are undergoing change. The chapter also includes maps showing the SIP monitoring stations in each air basin.

Chapter 23, *Source Surveillance:* This chapter is intended to respond to the requirements of 40 CFR 51.19 (Source Surveillance). Surveillance of stationary sources is discussed and tabulated. Mobile source programs, both existing and under consideration, are described. The emission inventory, as it relates to major point sources, area sources, and motor vehicles, is discussed, as is the modeling of transportation control measures.

Chapter 24, *Resources:* This chapter is intended to address the requirements of 40 CFR 51.20 (Resources) and 51.60 (AQMA Plan: Resources). The introduction presents an overview of local, State, and Federal resource relationships. Air pollution control district (APCD) resources for 1977–78 are tabulated, by function, in dollars and person-years, for each APCD. ARB resources are similarly summarized for 1977–78 and 1978–79, and the functions of each ARB division are briefly described. Future funding problems are mentioned. Most of the chapter consists of two appendices, dealing with ARB/APCD roles in stationary source control and with the organization of the ARB staff.

Chapter 25, *Intergovernmental Relations:* This chapter is intended to address the requirements of 40 CFR 51.21 (Intergovernmental Cooperation) and 51.58 (AQMA Plan: Intergovernmental Cooperation), as well as sections 121 (Consultation) and 174 (Planning Procedures) of the CAA, as amended. The roles and interrelationships of the ARB, the APCD's, the Basinwide Air Pollution Control Councils, and the Councils of Governments are described, with respect to several air-related planning programs. Also described are the relationships among over 13 State agencies concerned with air quality. State-Federal relations are discussed, including those between the State and the EPA, the Federal Highway Administration, the Department of Energy, the Department of Housing and Urban Development, and others. Interstate relations (between California and Nevada, Oregon, and Arizona) and international relations with Mexico are described.

Discussion

As a revision to the SIP, these six administrative chapters appear to be approvable because, in general, they constitute an updating and clarification of the 1972 SIP and are consistent with the requirements of 40 CFR Part 51. The EPA now proposes to approve these chapters and incorporate them into the SIP.

The subject of this notice is considered to be "non-significant", because it is informational and administrative in nature. No new requirements would be imposed, nor would any requirements be withdrawn. For these reasons, a 30-day public comment period is deemed sufficient.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the above described revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office during the specified comment period. Comments received will be available for public inspection at the EPA Region IX Library, the EPA Public Information Reference Unit, and the ARB Office in Sacramento.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of section 110(a)(2) of the Clean Air Act, as amended, and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

(Sec. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

Dated: May 8, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 79–15654 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1229-3]

Approval and Promulgation of Implementation Plans, Extension for Submittal of State Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is today giving notice of its intention to approve requests submitted by the Idaho State Department of Health and Welfare, the Oregon Department of Environmental Quality and the Washington Department of Ecology for 18-month extensions in submitting a plan to control Total Suspended Particulate matter (TSP) for certain non-attainment areas.

DATE: Comments are requested by June 20, 1979.

ADDRESS:

Environmental Protection Agency, Region X M/S 629, 1200 Sixth Avenue, Seattle, WA 98101.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clark L. Gaulding, Chief, Air Programs Branch (M/S 629), Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-1230, (FTS) 399-1230.

SUPPLEMENTAL INFORMATION: Pursuant to § 51.31, Title 40, Code of Federal Regulations, a state may request an extension, for a period of not to exceed 18 months, of a deadline for submitting the portion of a plan that implements a secondary National Ambient Air Quality Standard. Such request for an extension must show that attainment of the standard will require emission reductions exceeding those which can be achieved through the application of Reasonably Available Control Technology.

EPA Region X has received three requests for extension of the secondary standards for TSP under the provisions in 40 CFR 51.31. The requests are from:

1. The Idaho Department of Health and Welfare (IDHW). By a letter dated February 16, 1979, the IDHW requested an extension for all secondary TSP non-attainment areas in the State of Idaho.

2. The Oregon Department of Environmental Quality (DEQ). By letters dated March 2, 1979 and April 6, 1979, the DEQ requested extensions for the following secondary TSP non-attainment areas in the State of Oregon; Portland, Eugene-Springfield, and Medford-Ashland.

3. The Washington Department of Ecology (DOE). By its letter of April 4, 1979, the DOE requested an extension for all secondary TSP non-attainment areas in Washington.

The requested extensions will provide the States adequate time to conduct studies and develop control strategies necessary to attain the above noted secondary TSP standard.

EPA is therefore today proposing to approve the States' request for 18-month extensions. Comments on the proposed approval are invited for a period of 30 days and should be directed to Mr. Clark Gaulding at the address listed at the beginning of this notice. EPA will review and evaluate any comments received and publish a Notice of Final Rulemaking in the **Federal Register** after the public comment period.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is proposed to be amended as follows:

1. Section 52.672 is amended by adding paragraph (d) as follows:

§ 52.672 Extensions.

* * * * * *

(d) The Regional Administrator hereby extends to July 1, 1980, the statutory timetable for submission of Idaho's plan for the attainment and maintenance of the secondary standards for Total Suspended Particulate in all non-attainment areas in Idaho.

2. Section 52.1981 is amended by adding paragraph (d) as follows:

§ 52.1981 Extensions.

* * * * *

(d) The Regional Administrator hereby extends to July 1, 1980, the Statutory timetable for submission of Oregon's plan for the attainment and maintenance of the secondary standards for Total Suspended Particulate matter in the Portland, Springfield-Eugene, and Medford-Ashland non-attainment areas in Oregon.

3. Section 52.2472 is amended by adding paragraph (b) as follows:

§ 52.2472 Extensions.

* * * * *

(b) The Regional Administrator hereby extends to July 1, 1980, the statutory timetable for submission of Washington's plan for the attainment and maintenance of the secondary standards for Total Suspended Particulate matter in all non-attainment areas in Washington.

Sec. 110a, Clean Air Act (42 U.S.C. 7410(a).)

Dated: May 4, 1979.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 79-15657 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

[Docket No. DCO-79-62; FRL 1228-7]

Proposed Approval of an Administrative Order Issued by the Morgan County Board of Health, Morgan County, Ala., to Amoco Chemicals Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Morgan County Board of Health of Morgan County, Alabama, to Amoco Chemicals Corporation. The Order requires Amoco Chemicals Corporation to bring air emissions from its #3, 4 and 5 oxidation unit thermal oxidizer systems in Decatur, Alabama, into compliance with air pollution control requlations contained in the federally approved Alabama State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 20, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Hugh Hazen, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE.,

Atlanta, Georgia 30308, Telephone Number: (404) 881–4253.

SUPPLEMENTARY INFORMATION: Amoco Chemicals Corporation operates an organic chemical manufacturing plant located northwest of Decatur, Morgan County, Alabama. The Order under consideration addresses particulate emissions from three xylene oxidation processes (#3, #4 and #5), which are subject to Morgan County Air Pollution Control Regulation 6.10.2. This regulation limits the emission of particulate matter and is part of the federally approved Alabama State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment on each of the three units:

(1) Issue purchase order for major equipment by November 1, 1978.

(2) Begin construction by January 1, 1979.

(3) Complete construction of control equipment by June 23, 1979.

(4) Complete performance testing and achieve compliance with all applicable rules and regulations by June 30, 1979.

The source is required to submit bimonthly reports by the 15th day of every other month indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, the Amoco Chemicals Corporation shall immediately notify the Morgan County Health Department in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Amoco Chemicals Corporation shall submit, in the progress report immediately following the deadline for completion of each milestone required by the above schedule, certification to the Morgan County Health Department whether or not such milestone has been met.

As an interim control measure, particulate emissions from #3, #4 and #5 xylene oxidation processes shall not exceed 30 lbs/hr for #3; 20 lbs/hr for #4; and 26 lbs/hr for #6.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable state air pollution control regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Alabama SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: May 11, 1979.

John C. White,

Regional Administrator, Region IV.

[FR Doc. 79–15644 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 81]

[FRL 1229–1]

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations: North Carolina

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: The Clean Air Act Amendments of 1977 required that the Environmental Protection Agency (EPA) designate the attainment status of all areas within the States on a State-by-State, pollutant-by-pollutant basis. This was done on March 3, 1978 (43 FR 8962). Either the State or EPA can initiate changes in these designations, and such changes, if finalized by the Administrator, will replace extant designations. Air quality data gathered in Spruce Pine, North Carolina during calendar year 1978 shows no violation of the primary standards for particulate matter. It is proposed to change the designation of this area from nonattainment to unclassifiable for the primary standards; the nonattainment designation would remain in effect for the secondary standard. The public is invited to submit written comments on the proposed change.

DATE: Written public comment should be submitted to the person named below, and must be received on or before June 20, 1979, to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, GA 30308; telephone 404/881–2864 (FTS 257–2864).

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962 at 9019), the Administrator designated portions of Avery, Mitchell, and Yancey Counties, North Carolina in and around Spruce Pine as nonattainment for particulate matter. This designation was based on information submitted by the State showing that the primary standards for this pollutant had been exceeded in 1976 and in 1977. The annual standard was violated in 1976 (annual geometric mean, 84 $\mu g/m^3$) and both annual and 24-hour standards were violated in 1977 (annual geometric mean, 101.5 $\mu g/m^3$; second highest 24-hour measurement, 276 $\mu g/m^3$).

On February 1, 1979, the North Carolina Division of Environmental Management submitted particulate data gathered at the Spruce Pine monitoring site during calendar year 1978 and validated by the agency's Quality Assurance Coordinator. This data shows no violations of the primary standards, and only a single violation of the secondary standard (annual geometric mean, 70.5 $\mu g/m^3$; second highest 24-hour measurement, 156 $\mu g/m^3$). This improvement in air quality is attributed to the completion of a road construction project which was in progress in the vicinity (within 0.3 mile) of the monitoring site in 1976 and 1977.

The Division of Environmental Management requested that the Spruce Pine nonattainment area be redesignated unclassifiable for the primary stndards, and that the designation of nonattainment apply to the secondary standard only. Also, the Division requested an extension to July 1, 1980, of the deadline for submitting an implementation plan revision providing for the attainment of the secondary particulate standard in the Spruce Pine area. The latter request will be dealt with in a later **Federal Register** notice.

EPA is proposing to redesignate the Spruce Pine area as the State has requested. Before taking final action on this change, the Agency will verify that the data submitted by the State satisfies all applicable EPA criteria established

to assure the validity and representativeness of air quality data.

(Secs. 107, 171, 301, Clean Air Act (42 U.S.C. 7407, 7501, and 7601))

Dated: May 8, 1979.

John C. White,

Regional Administrator.

It is proposed to amend Part 81 of Chapter I, Title 40, Code of Federal Regulations, as follows:

Subpart C—Section 107 Attainment Status Designations

* * * * *

In § 81.334, the attainment status designation table for TSP is revised to read as follows:

§ 81.334 North Carolina.

North Carolina—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Certain portions of Mitchell, Avery, and Yancey Counties within and around Spruce Pine		X	X	
Carteret County			*X	
Forsyth County			X	
Rest of State				X

* EPA designation replaces State designation.

[FR Doc. 79-15655 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 17]

Nondiscrimination on the Basis of Handicap

AGENCY: Department of the Interior.

ACTION: Correction.

SUMMARY: 43 CFR Part 17, Subpart B—Nondiscrimination on the Basis of Handicap, was erroneously published in the Federal Register on April 13, 1979 (FR Doc. 79-11481, 44 FR 22372) as a "Notice of Intent, final rule." It was not the intent of the Department to publish this document as a final rule. Comments are being solicited and will be considered when the proposed rule is developed at a later date.

Therefore, the ACTION line is corrected to read: **ACTION:** Advance Notice of Proposed Rulemaking.

And, the amendatory language immediately following the signature is corrected to read: Accordingly, it is proposed: to retitle 43 CFR Part 17 as Nondiscrimination in Federally-Assisted Programs of the Department of the Interior; to redesignate 43 CFR Sections 17.1 through 17.19 as Subpart A—Effectuation of Title VI of the Civil Rights Act of 1964; and to add a new Subpart B to read as follows:

EFFECTIVE DATE: April 13, 1979.

FOR FURTHER INFORMATION CONTACT: Melvin Fowler, 202-343-6335, or Jim Poole, 202-343-4331.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 79-15793 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[43 CFR Part 1600]

Planning, Programming, and Budgeting; Reopening of the Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: The comment period on section 1601.6-1 of the proposed rulemaking on the planning system that was published in the Federal Register of December 15, 1978 (43 FR 58772) is reopened to receive additional comments.

SUMMARY: The comment period is being reopened to allow public comment on material covering the same subject as contained in section 1601.6-1 that was received as part of the comments on another proposed rulemaking.

DATES: Comments must be received by May 30, 1979.

ADDRESS: Comments should be sent to: Director (210), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address from 7:45 a.m. to 4:15 p.m. during regular working days.

FOR FURTHER INFORMATION CONTACT: Robert A. Jones (202) 343-5682 or Robert Uram (202) 343-4803.

SUPPLEMENTARY INFORMATION: This notice reopens the comment period on one section of the Bureau of Land Management's proposed rulemaking on land-use planning as published in the Federal Register of December 15, 1978 (43 FR 58764), for a period ending on May 30, 1979, to allow public comments on that section of the proposed rulemaking on land-use planning.

This section, section 1601.6-1, relates to the scope and standards for protests to the Director, Bureau of Land Management, on land-use planning. The comment period is being reopened to allow public comment on comments received on another proposed rulemaking during its comment period. The comment covers the same subject matter as that covered by section 1601.6-1. This comment was received after the close of comment period on the proposed rulemaking on land-use planning.

The Department of the Interior has conducted two rulemaking proceedings, one on land-use planning and one on coal management. These two rulemakings have separate but parallel time schedules. The time schedule for the land-use planning rulemakings was publication of the proposed rulemaking on December 15, 1978, with a comment period that closed on April 1, 1979. The final rulemaking is scheduled for publication by June 15, 1979.

The time schedule for the coal management rulemaking was publication of a notice to propose rulemaking, with an example rulemaking made available by the notice, on December 15, 1978 (43 FR 58776). The proposed rulemaking on coal management was published on March 19, 1979 (44 FR 16800), a minor amendment was published on April 19, 1979 (44 FR 23508). The comment period for the proposed rulemaking published on March 19, 1979, ends on May 19, 1979, and the comment period on the amendment of April 19, 1979, ends on May 21, 1979. The final rulemaking on coal management is scheduled for publication by June 22, 1979.

At a meeting on April 28, 1979, to discuss the proposed rulemaking on coal management, the Department received a proposed change to the coal management rulemaking that would give interested citizens the right to protest

management framework plans to the Director, Bureau of Land Management.

During the meeting, the Department suggested that it might be more appropriate to respond to the comment in connection with the proposed rulemaking on land-use planning rather than the proposed rulemaking on coal management. A copy of the comments and notes resulting from the meeting have been included in the dockets of both of the rulemakings.

Although the comments received during the meeting on the proposed rulemaking on coal management were similar to those received during the comment period on the proposed rulemaking on land-use and similar to the language contained in the proposed rulemaking of the Department of the Interior, the Department is reopening the comment period on section 1601.6–1 of the proposed rulemaking on land-use planning. The comment period is being reopened because a comment was received after the close of the comment period on the proposed rulemaking on land-use planning, although during the comment period on the proposed rulemaking on coal management. This will give interested persons opportunity to comment on the material received on the proposed coal management rulemaking. In view of the previous opportunity to comment, the small amount of information added, the nature of the issue involved and the intervening holiday, the Department of the Interior will accept comments until May 30, 1979. Comments should be directed to the substance of the new information and its relationship to the proposed section.

Gary J. Wicks,

Deputy Assistant Secretary of the Interior.

May 16, 1979.

[FR Doc. 79–15833 Filed 5–18–79; 8:45 am]

BILLING CODE 4310–84–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Parts 4, 8, and 15]

Draft Federal Acquisition Regulation Availability and Request for Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment segments of the draft Federal Acquisition Regulation (FAR) regarding Administrative Matters, Acquisition from Federal Prison Industries Inc., Acquisition from Blind and Other Severly Handicapped, Acquisition of Printing and Related Supplies and Unsolicited Proposals. Availability of additional segments for comment will be announced on later dates. The regulation is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before July 17, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Maraist, or Strat Valakis (202) 395–300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

Part 4—Administrative Matters

4.1 *Documentation of Contract Actions.* This subpart requires that the head of the contracting activity ensure the maintenance of official records of all contractual actions. It prescribes the minimum content of these records.

4.2 *Contract Execution.* This subpart requires that only contracting officers shall sign contracts on behalf of the United States. It also contains regulations, regarding contractor's signature, including partnerships, corporations, joint ventures, individuals, and agents.

4.3 *Contract Distribution.* This subpart prescribes the minimum distribution to be made of copies of each contract and modification.

Part 8—Required Sources of Supplies and Services

8.6 *Acquisition from Federal Prison Industries, Inc.* This subpart requires Agencies to purchase required supplies of the classes listed in the Schedule of Products made in Federal Penal and Correctional Institutions using the procedures in this subpart. It contains ordering procedures, exceptions and clearance requirements.

8.7 *Acquisition from the Blind and Other Severely Handicapped.* This subpart prescribes the policies and procedures for implementing the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) and the rules of the committee for Purchase from the Blind and Other Severely Handicapped (41 CFR Part 5). The Act requires the Government to purchase supplies or services on the Procurement List established by the Committee.

8.8 *Acquisition of Printing and Related Supplies.* This subpart provides policy limiting acquisition of Government printing and related supplies as required by 44 U.S.C. 501, 502, 504 and 1121 and the Government Printing and Binding Regulations, Published by the Congressional Joint Committee on Printing (JCP). Generally, all Government printing is done at the Government Printing Office (GPO) except when the JCP approves otherwise.

Part 15—Contracting by Negotiation

15.5 *Unsolicited Proposals.* This subpart prescribes policies and procedures for submission, receipt, evaluation, and acceptance of unsolicited proposals. It states the policy that Agencies shall encourage the submission of unsolicited proposals and avoid organizational or regulatory constraints that may inhibit generation and acceptance of innovative ideas from prospective contractors.

Dated: May 16, 1979.

William W. Thybony,

Assistant Administrator for Regulations.

[FR Doc. 79–15801 Filed 5–18–79; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 107, 172, 173, and 175]

[Docket No. HM-166B; Notice 79-8]

Shipment of Hazardous Materials by Air; Miscellaneous Proposals

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Material Transportation Bureau is proposing to amend certain regulations pertaining to the shipment of hazardous materials by aircraft. This notice involves package orientation markings, package inspection requirements, and proposed changes to allow full or partial exceptions for items such as wheelchairs equipped with nonspillable batteries, escape and evacuation slides, transport incubators, organ preservation units, and dry ice. Also included in this notice is a proposal to allow certain exceptions from the maximum transport index and separation requirements for radioactive materials aboard cargo-only aircraft under a strict radiation control program to be established by the carriers. These proposals are based upon either a petition for rulemaking or on the initiative of the Bureau to clarify, simplify, or eliminate existing regulations relating to air shipments of hazardous materials.

DATE: Comments on or before July 20, 1979.

ADDRESS: Send comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT: John C. Allen, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, 2100 2nd Street S.W., Washington, D.C. 20590, (202-755-4962).

SUPPLEMENTARY INFORMATION: The Material Transportation Bureau published a Notice of Proposed Rulemaking (Docket HM-166, Notice 78-11) on November 30, 1978 (43 FR 56070) entitled Shipment of Hazardous Materials by Water. It was indicated in the Supplementary Information in that notice that Docket HM-166 would be a docket used to incorporate changes in the hazardous materials regulations based on either petitions for rulemaking or on the Bureau's own initiative. This is the third notice under HM-166 and considers petitions and proposals relating to the shipment of hazardous materials by air. The proposals are categorized as follows:

1. *Wheelchairs with non-spillable batteries (§ 173.250).*

Wet electric storage batteries are forbidden from shipment by passenger-carrying aircraft. However, § 173.250(a) excepts automobiles or other specifically named self-propelled vehicles equipped with wet electric storage batteries from all hazardous materials regulations including shipment by passenger aircraft. Most items meeting this shipping description are too large to be stowed in the smaller compartments on passenger-carrying aircraft and therefore are shipped by cargo-only aircraft. However, a problem arises with respect to the shipment of smaller "self-propelled vehicles, engines, or other mechanical apparatus" which are equipped with wet electric storage batteries. These items are often small enough to be laid sideways in the cargo compartment. Some, for example electric wheelchairs, are even collapsible. This has resulted in incidents where the storage batteries have leaked battery fluid because the vehicle or apparatus to which they are attached is not stowed in an upright position, particularly on passenger-carrying aircraft where cargo compartments may not be very large.

The Bureau proposes to alleviate this problem by generally forbidding the carriage of automobiles and other self-propelled vehicles equipped with electric storage batteries by passenger-carrying aircraft. An exception will be provided in § 173.250 for items such as wheelchairs which are equipped with batteries of the non-spillable type.

2. *Escape and evacuation slides (§§ 172.101, 173.906).*

On March 2, 1978, the Bureau amended the hazardfous materials regulations under Docket HM-139 (43 FR 8519) to provide for the shipment of inflatable liferafts containing small quantities of hazardous materials as an ORM-C. A general packaging section was added in § 173.906 and a new entry was added to § 172.101 to accomplish this.

MTB proposes to expand these provisions to include inflatable escape and evacuation slides. These items, similar to inflatable liferafts, are emergency equipment often installed in aircraft for use as lifesaving apparatus. The proposal would provide for the transportation of these slides, which contian small quantities of hazardous materials, aboard aircraft as long as they are adequately protected by a strong outside packaging.

3. *Transport incubators and organ preservation units (§ 175.10).*

The Bureau is proposing under certain conditions to except transport incubators and organ preservation units from the hazardous materials regulations when shipped by air. These life-saving apparatus utilize oxygen or other types of compressed gas in transporting infants or human organs for transplant purposes. The compressed gas would be required to be in an authorized DOT cylinder to qualify for the exception. This equipment has been carried in passenger compartments under DOT exemptions for the past several years with no reported problems.

4. *Package orientation markings (§ 172.312).*

The Bureau is proposing to amend § 172.312 which pertains to orientation markings on packages with inside packagings containing liquid hazardous materials. This section requires such packages to be marked "THIS SIDE UP" or "THIS END UP" and requires the inside containers to be packed with closures up. An exception is allowed for flammable liquids in inside containers of one quart capacity or less. The Bureau believes that in order to qualify for this exception when shipping by air, the shipper should insure that there is ample absorption material in the package to completely absorb the liquid contents. Accordingly, § 172.312 would be revised by adding paragraphs (d) and (e) which would separate the flammable liquid exception pertaining to air shipments from the exception pertaining to other modes.

5. *Exceptions from transport index limits and separation requirements for non-fissile radioactive materials shipped in cargo-only aircraft (§ 175.705).*

It is proposed to add a new section to Part 175 to allow the use of cargo-only aircraft for the carriage of non-fissile radioactive materials under a professionally supervised radiation protection program. Several air carriers have very successfully operated under such a program since 1976 as authorized by DOT Exemption No. 7060.

Essentially air carriers would be allowed to carry radioactive materials whose total transport indices exceed 50 in cargo-only aircraft without meeting the separation distance requirements of § 175.700(a). In order to qualify for these exceptions, the carrier must have established a radiation protection program which must include the following:

Supervision by a competent health physicist meeting certain minimum professional requirements.

Keeping exposure limits within the standards established by the Occupational Safety and health Administration (OSHA) in 29 CFR 1910.96 and otherwise as low as reasonably achievable.

Conducting monthly contamination surveys and submitting results to the local FAA office.

6. *Exceptions for certain flammable liquids (§ 172.100(g)(3)).*

Several petitioners have requested that an exception now located in § 172.100(g)(3) be moved to § 173.118 for clarification. The exception pertains to the net quantity limitations for flammable liquids with flash points above 73°F aboard aircraft. Petitioners argue that this exception should appear in § 173.118 which contains limited quantity exceptions for flammable liquids. The Bureau agrees and it is proposed to re-locate the provisions of § 172.100(g)(3) to § 173.118(b).

7. *Carbon dioxide, solid (Dry Ice) (§§ 173.615, 175.10).*

Solid carbon dioxide, or dry ice, is often used as a refrigerant to preserve perishable items in a package. It is subject to the hazardous materials regulations only when shipped by air or water under the hazard class of ORM–A. The Bureau recently published an amendment to the packaging requirements in § 173.615 which allowed an exception from the shipping paper and certification requirements when dry ice is used a a refrigerant for diagnostic or medical treatment materials (Docket HM–147, 42 FR 5059). This amendment was in response to indications that such medical supplies, often in need of quick and expeditious movement, were being unnecessarily frustrated by documentation requirements.

MTB has now been petitioned to extend this exception to include dry ice used for refrigeration of any material that is not otherwise regulated as a hazardous material as long as there is 5 pounds or less of dry ice in the package and it is packaged and marked as now required. It is argued that dry ice used for preserving such innocuous items as ice cream, fish and chickens are now subject to documentation requirements while medical diagnostic materials are excepted.

The Bureau believes that some exceptions should be allowed for small quantities of solid carbon dioxide which is used for refrigeration of other non-hazardous articles. Consequently, it is proposed to except dry ice from shipping paper and certification requirements and from the provisions of part 175 when there is 5 pounds or less of dry ice per package and when the package meets the requirements of § 173.615(a) and is marked with both the name of the contents being refrigerated and "DRY ICE" or "CARBON DIOXIDE, SOLID." Marking the name of the material being refrigerated on the package is being required to allay fears that shippers will try to pack regulated hazardous materials with dry ice and thus avoid other requirements.

It is also being proposed to except packages containing 5 pounds or less of dry ice from the provision in § 173.615(a) which requires advance arrangement between shippers and carriers prior to each air shipment.

8. *Informing passengers of hazardous materials restrictions (§ 175.25).*

It is being proposed to add a new provision in Part 175 to require air carriers to display FAA approved notices at appropriate locations within the airport to inform passengers of restrictions against carrying hazardous materials in personal baggage aboard aircraft and the penalties associated with such practice.

It is contended by the Airline Pilots Association (ALPA) that incidents involving hazardous materials carried in passenger baggage continue to occur. ALPA maintains that such incidents "range from ignition of fuel contained in camp stoves which are inside campers' backpacks to leakage of chemicals such as nitric acid from samples carried by business travelers."

Although it is not clear that such incidents are commonplace, the Bureau believes there is merit to the ALPA proposal. Passengers may often be unaware of the dangers involved in carrying hazardous materials in their baggage. In addition, it is contended that some passengers knowingly violate restrictions on hazardous materials to circumvent the "red tape" which they believe would otherwise be involved. Consequently, MTB proposes to add § 175.25 to require aircraft operators to inform passengers of the hazardous materials restrictions and penalties.

9. *Inspection of hazardous materials packages (§ 175.30).*

The air carrier is required by § 175.30 to inspect a package containing hazardous materials for its integrity prior to placing the package aboard an aircraft. MTB is proposing to "except" certain specifically named items from this requirement where there is no useful purpose to be served from the package inspection.

For example, ORM–D materials packed in freight containers and offered for transportation by one consignor are presently excepted from the package inspection requirements. All other hazardous materials packed in a freight container must be inspected by the air carrier. MTB believes this is an important and necessary requirement for the originating carrier. However, the Bureau questions the usefulness of requiring each succeeding air carrier to open the freight container each time it is transferred from one carrier to another. It is being proposed in this notice to require only the originating carrier to open and inspect the contents of a freight container loaded with packages of hazardous materials as long as written notification of package inspection is transferred to each subsequent air carrier.

In addition, two other specifically identified items should be excepted from package inspection. Packages containing magnetizing materials do not require inspection since these materials need to be identified only for the purpose of proper location aboard the aircraft. Dry ice (carbon dioxide, solid) should be identified as to quantity and cargo location, but actual package inspection serves very little purpose. Consequently, it is proposed to except these materials also from the package inspection requirements.

Two other editorial amendments to § 175.30 are being proposed merely for clarity and to avoid confusion. Paragraph (b) pertains to the actual inspection of the package before it is placed on an aircraft. MTB proposes to add the word "immediately" before the word "prior" to clearly establish that the package should be inspected for integrity just before placing it aboard the aircraft. This is to preclude the possibility where the inspection is conducted several days before actually being placed on the aircraft. Finally, paragraph (a)(1) of § 175.30 would be amended to reference § 175.310 as well as § 172.101 for applicable quantity limitations aboard aircraft.

10. *Explosives carried under § 175.320.*

A proposed change to § 175.320(b)(8) would delete the requirement for obtaining route approval when carrying Class A explosives. The Bureau believes that this requirement is unreasonable and does not contribute to safety since route approval, or clearance, is largely determined by the Federal Airways System. The intent of this requirement was to insure that aircraft carrying Class A explosives avoid flight over highly populated areas whenever possible. This is a responsibility that can be accomplished by the aircraft operator through careful planning of his

own route. The approval of every route by an FAA inspector is an unnecessary step and reduces the flexibility which is necessary in a flight plan to consider other important variables. When the aircraft is operating under radar control, however, the aircraft operator will be required to request appropriate vectors to avoid heavily populated areas.

11. *Miscellaneous changes.*

MTB proposes to amend the introductory wording of Appendix B to Part 107 pertaining to the additional requirements placed on air carriers operating under exemptions. The second part of Appendix B is entitled "Flights of Civil Aircraft." This part of Appendix B should be applicable only to cargo-only aircraft. For example, if condition number one were applicable to passenger aircraft, then no passenger would be allowed on any flight which carried a hazardous material under a DOT exemption. In addition, Docket HM-168 (43 FR 57928) has proposed that the word "civil" be deleted from this title. Consequently the title of this portion of Appendix B would be amended to read "Flights of Cargo-only Aircraft" and the first sentence would be changed to reflect this.

Sections 175.305(a)(4) and 175.310(c)(4)(iii) now require air carriers to maintain a certain "ventilation rate" in compartments loaded with self-propelled vehicles and with containers of flammable liquids respectively. The Bureau believes this to be an impractical burden on aircraft operators. Means for determining ventilation rates are not readily available except to some manufacturers of aircraft or perhaps to large and sophisticated maintenance facilities. These requirements would be re-worded to simply require air carriers to prevent the dangerous accumulation of fuel vapors.

Section 172.100(g)(2) would be amended by deleting the word "outside" in the first sentence. This would eliminate some existing confusion since the word "outside" is not used in Column (6)(b) of the Hazardous Materials Table in § 172.101 to which this regulation refers. Also, the term "package" is clearly defined in § 171.8 and the descriptive word "outside" is not necessary in this particular instance.

Another proposed amendment to eliminate confusion and provide clarity is to re-word § 172.100(f) which explains the nature of Column 5 of the Hazardous Materials Table in § 172.101. It is stated that Column 5(a) contains references to "exceptions" from the packaging references given in Column 5(b). However, these are not the only exceptions from the packaging requirements. There are other exceptions relating to the specific mode of transportation in Parts 174, 175, 176 and 177 and this fact would be reflected in § 172.100(f).

The Bureau has also been petitioned to amend the requirements in § 173.307(a)(2) and § 175.10 pertaining to the shipment by air of inflated tires. The regulations now require the tires to be inflated to not more than 100 psig at 70° F in order to qualify for exceptions. The Bureau is proposing to allow tires to be inflated to their rated service pressure.

Finally, an editorial change is being proposed to § 175.33 relating to notification of the pilot of hazardous materials aboard the aircraft. The last word in the introductory paragraph which is "takeoff" would be changed to "departure." This is merely for consistency since the term departure is used in a similar manner in § 175.35.

The principal drafters of this document are John C. Allen, Office of Hazardous Materials Regulation, and George W. Tenley of the Office of Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, Parts 107, 172, 173, and 175 of Title 49 Code of Federal Regulations, would be amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. In Appendix B following Subpart B of Part 107, the title to the second section and the introductory sentence preceding paragraph (1) would be amended to read as follows:

Appendix B—Standard Conditions Applicable to Exemptions

* * * * *

Flights of Cargo-only Aircraft

Exemptions from the regulations governing the transportation of hazardous materials on cargo-only aircraft are subject to the following conditions:

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 172.100, paragraph (f), the introductory text of paragraph (g), and paragraph (g)(2) would be revised; paragraph (g)(3) would be deleted as follows:

§ 172.100 Purpose and use of the table.

* * * * *

(f) Column 5 references the applicable packaging section of Part 173. Exceptions from some of the requirements of this subchapter are noted in column 5(a). Other exceptions relating to the specific mode of transportation are contained in Parts 174, 175, 176 and 177 of this subchapter. Reference to specific packaging requirements are certain additional exceptions are noted in column 5(b).

(g) Column 6 specifies the maximum net quantity in one package for air transportation or passenger railcar. An exception for certain flammable liquids in provided in § 173.118 of this subchapter.

(1) * * *

(2) Column 6(b) specifies the maximum net quantity for one package on cargo-only aircraft. Packaging must bear the CARGO AIRCRAFT ONLY label when the quantity of hazardous material exceeds that authorized on passenger-carrying aircraft, or is forbidden on passenger-carrying aircraft.

(3) [Deleted]

* * * * *

3. In § 172.101 the Hazardous Materials Table would be amended as follows:

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(1)	(2)	(3)	(4)	(5)		(6)		(7)			
				Packaging		Maximum net quanity in one package		Water shipments			
*/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirement
	(Change)									
	*		*			*		*		*
	Battery electric storage, wet, with automobile, auto parts, engine (or other specifically named mechanical apparatus)	Corrosive material	Corrosive	173.250	173.260	Forbidden	No limit	1,2	1,2	Keep dry
	*		*			*		*		*

BILLING CODE 4910-60-C

4. In § 172.312 the introductory text of paragraph (a) would be revised, paragraphs (d) and (e) would be added to read as follows:

§ 172.312 Liquid hazardous materials.

(a) Except as provided in this section, each package having an inside packaging containing liquid hazardous materials must be—

* * * * *

(d) Except when offered for transportation by air, limited quantities of flammable liquids packed in inside packagings of one quart or less are excepted from the orientation marketing requirements of this section.

(e) When offered for transportation by air, limited quantities of flammable liquid are excepted from the orientation marking requirements of this section when packed in inside packagings of one quart or less with sufficient absorption material between the inner and outer packagings to completely absorb the liquid contents.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

5. In § 173.118 paragraph (b) would be amended by adding the following sentence at the end of the paragraph:

§ 173.118 Limited quantities of flammable liquids.

* * * * *

(b) * * * Notwithstanding § 172.101 of this subchapter, the net quantity limitation for flammable liquids meeting the conditions of this paragraph is one-gallon per package for carriage aboard passenger-carrying aircraft or railcar, and 55 gallons per package for carriage aboard cargo-only aircraft.

* * * * *

6. In § 173.250 a new sentence would be added at the end of paragraph (a) to read as follows:

§ 173.250 Automobiles, other self-propelled vehicles, engines or other mechanical apparatus.

(a) * * * This exception does not apply for shipment by passenger-carrying aircraft unless batteries installed in the vehicles are of the non-spillable type.

* * * * *

7. In § 173.307 paragraph (a)(2) would be revised to read as follows:

§ 173.307 Exceptions for compressed gases.

(a) * * *

(2) Tires when inflated to a pressure not greater than the rated service pressure of tire.

* * * * *

8. In § 173.615 paragraph (a) would be revised to read as follows:

§ 173.615 Carbon dioxide, solid (dry ice).

(a) Solid carbon dioxide, when offered for transportation by aircraft or water, must be packed in packaging designed and constructed to permit the release of carbon dioxide gas to prevent a build-up of pressure that could rupture the packaging. For each shipment by air exceeding five pounds per package, advance arrangements between the shipper and each carrier must be made.

* * * * *

9. § 173.906 would be revised to read as follows:

§ 173.906 Inflatable life-rafts and evacuation slides.

An inflatable life-raft, escape or evacuation slide, serviced and ready for use as a life-saving appliance aboard a vessel or aircraft, containing small quantities of hazardous materials which are required as part of the life-saving appliance, (e.g., non-flammable compressed gas packaged in cylinders in accordance with this subchapter, Class C explosives that are pyrotechnic signal devices, and flammable liquids in repair kits) must be packed in a strong outside packaging.

PART 175—CARRIAGE BY AIRCRAFT

10. In § 175.10 paragraph (a)(2)(x) would be revised; paragraphs (a)(13) and (a)(14) would be added to read as follows:

§ 175.10 Exceptions.

(a) * * *

(2) * * *

(x) Items of replacement therefor, except that batteries, aerosol dispensers, and signaling devices must be packed in strong outside containers, and tires may not be inflated beyond their rated service pressure.

* * * * *

(13) Carbon dioxide, solid (dry ice) in quantities not exceeding 5 pounds per package when packed as required by § 173.615(a) of this subchapter, used as a refrigerant for the contents of the package, marked with the name of the contents being refrigerated, and also marked "CARBON DIOXIDE, SOLID" or "DRY ICE."

(14) A transport incubator unit necessary to protect life or an organ preservation unit necessary to protect human organs provided—

(i) The unit is secured in a "no smoking" area,

(ii) The compressed gas used to operate the unit is in an authorized DOT specification cylinder prescribed by this subchapter,

(iii) Each battery used in the operation of the unit is of the non-spillable type, and

(iv) The unit is accompanied by a person qualified to operate the unit.

11. § 175.25 would be added to read as follows:

§ 175.25 Informing passengers about hazardous materials.

Each aircraft operator who engages in the transportation of passengers shall display notices to passengers concerning the requirements and penalties associated with the carriage of hazardous materials in baggage aboard aircraft. Such warnings shall be prominently displayed in locations at airports where passengers obtain tickets, check baggage, and check-in prior to boarding aircraft. A sample notice meeting the requirements of this section may be obtained from FAA certificate holding offices.

12. In § 175.30 the introductory text of paragraph (a), paragraphs (a)(1), (b) and (c) would be revised to read as follows:

§ 175.30 Accepting shipments.

(a) Except as provided in this section, no person may accept a hazardous material for transportation aboard an aircraft unless the hazardous material is—

(1) Authorized, and is within the quantity limitations specified for carriage aboard aircraft according to § 172.101 of this subchapter or as otherwise specifically provided by this subchapter.

* * * * *

(b) Except as provided in paragraph (c) of this section, no person may carry any hazardous material aboard an aircraft unless, immediately prior to placing the material aboard the aircraft, the operator of the aircraft has inspected the package, or the outside container prepared in accordance with § 173.25 of this subchapter which contains the material, and has determined that it has no holes, leakage or other indication that its integrity has been compromised, and for radioactive materials that the package seal has not been broken.

(c) The requirements of paragraph (b) of this section do not apply to—

(1) An ORM–D material packed in a freight container and offered for transportation by one consignor;

(2) A hazardous material in a freight container transferred to a subsequent

air carrier provided a written notification is transferred with the freight container to each subsequent air carrier indicating that the inspection required by paragraph (b) of this section has been accomplished by the originating carrier;

(3) Dry ice (carbon dioxide, solid); or

(4) Magnetized materials.

13. In § 175.33 the introductory paragraph would be revised to read as follows:

§ 175.33 Notification of pilot-in-command.

When materials subject to the provisions of this subchapter are carried in an aircraft, the operator of the aircraft shall give the pilot-in-command the following information in writing before departure:

* * * * *

14. In § 175.85 paragraph (f) would be added to read as follow:

§ 175.85 Cargo location.

* * * * *

(f) Paragraph (a) or (e) of this section does not apply to a person operating an aircraft under § 175.310 which, because of its size and configuration, makes it impossible for that person to comply.

15. In § 175.305 paragraph (a)(4) would be revised to read as follows:

§ 175.305 Self-propelled vehicles.

(a) * * *

(4) Each area or compartment in which a self-propelled vehicle in being transported in suitably ventilated to prevent the presence of fuel vapors.

* * * * *

16. In § 175.310 paragraph (c)(4)(iii) would be deleted; paragraph (e) would be revised to read as follows:

§ 175.310 Transportation of flammable liquid fuel in small, passenger-carrying aircraft.

* * * * *

(c) * * *

(4) * * *

(iii) [Deleted].

* * * * *

(e) Each area or compartment in which the fuel is loaded is suitably ventilated to prevent the presence of fuel vapors.

* * * * *

17. In § 175.320(b)(8) would be revised to read as follows:

§ 175.320 Cargo-only aircraft; only means of transportation.

* * * * *

(b) * * *

(8) When Class A explosives are carried aboard cargo-only aircraft under the provisions of this section, the aircraft operator shall take all possible action to insure that routes over heavily populated areas are avoided commensurate with the safety of flight considerations. During the approach and landing phase, the aircraft operator shall request appropriate vectors when under radar control to avoid heavily populated areas.

* * * * *

17. § 175.705 would be added to read as follows:

§ 175.705 Special requirements for radioactive materials in cargo-only aircraft.

(a) Radioactive materials, except fissile radioactive materials, may be carried on cargo-only aircraft operated by holders of FAA Certificates and Operations Specifications issued under 14 CFR without meeting the requirements of §§ 175.75(a)(3) or 175.700(a) of this subchapter only under the following conditions.

(b) The carrier must establish and maintain a radiation protection program that will assure maximum exposure limits as follows:

(1) Exposure shall not exceed that established for employees who work in restricted areas where individuals may be exposed to radiation as prescribed in 29 CFR 1910.96. Notwithstanding these maximum exposure limits, the carrier shall make every effort to maintain exposure limits as low as reasonably achievable.

(2) For those persons not covered by 29 CFR 1910.96(d)(2), but who may be in the vicinity of the aircraft, the radiation dose rate shall not exceed 2 millirem per hour.

(c) The carrier must establish radiation control procedures to include the following:

(1) Conduct contamination surveys of the inside of the aircraft after each use for transporting radioactive materials to assure that there is no significant removable radioactive surface contamination as defined in § 173.397 of this subchapter,

(2) Assess radiation exposure on a monthly basis and submit the results of contamination surveys and the records required by 29 CFR 1910.96(n) to the FAA certificate holding office each month,

(3) Obtain written assurance from the shipper that packages of radioactive materials offered for shipment do not include fissile radioactive materials.

(d) The carrier must have available the services of a competent health physicist to supervise its radiation protection program. This person must have at least six years of professional experience in health physics. At least three of these six years must have been in applied radiation protection work, including experience in the kind of radiation protection problems likely to arise in the carrier's operation.

(e) The carrier must instruct its personnel concerning the requirements of this section and the nonapplicability of this section to the placing of radioactive materials in a transport vehicle for surface transportation.

(1) Aircraft operator personnel may not participate in the loading of any motor vehicle in a manner that would cause a violation of § 177.842 of this subchapter.

(49 U.S.C. 1804; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A, Part 106.)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms 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 May 10, 1979.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-15562 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 44, No. 99
Monday, May 21, 1979

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.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Annual Comprehensive Review

Notice is hereby given that the Department of Agriculture is conducting an annual comprehensive review to determine which, if any, of its advisory committees are no longer serving a valid purpose and should be abolished. This review is required by Section 7(b) of the Federal Advisory Committee Act.

Advisory Committee on Export Sales Reporting
Advisory Committee on Foreign Animal Diseases
Advisory Committee on Meat and Poultry Inspection
Advisory Committee on State and Private Forestry
Animal Health Science Research Advisory Board
Bridger-Teton National Forest Grazing Advisory Board
Caribou National Forest Grazing Advisory Board
Cascade Head Scenic-Research Area Advisory Council
Challis National Forest Grazing Advisory Board
Citizens Advisory Committee on Equal Opportunity
Coconino National Forest Grazing Advisory Board
Committee of Nine
Committee of State Foresters
Cooperative Forestry Research Advisory Board
Cooperative Forestry Research Advisory Committee
Coronado National Forest Grazing Advisory Board
Flue-Cured Tobacco Advisory Committee
General Conference Committee of the National Poultry Improvement Plan
Gila National Forest Grazing Advisory Board
Gospel-Hump Area Advisory Committee
Grain Standards Act Advisory Committee
Hop Marketing Advisory Board
Humboldt National Forest Grazing Advisory Board
Joint Council on Food and Agricultural Sciences
Lewis and Clark National Forest Grazing Advisory Board
Los Padres National Forest Grazing Advisory Board
Malheur National Forest Grazing Advisory Board
Modoc National Forest Grazing Advisory Board
National Advisory Council on Child Nutrition
National Advisory Council on Maternal, Infant and Fetal Nutrition
National Agricultural Research and Extension Users Advisory Board
National Arboretum Advisory Council
National Forest Management Act Committee of Scientists
National Forest System Advisory Committee
National Plant Genetic Resources Board
Nezperce National Forest Grazing Advisory Board
Ochoco National Forest Grazing Advisory Board
Pacific Crest National Scenic Trail Advisory Committee
Payette National Forest Grazing Advisory Board
Plant Variety Protection Board
Prescott National Forest Grazing Advisory Board
Routt National Forest Grazing Advisory Board
Targhee National Forest Grazing Advisory Board
Tonto National Forest Grazing Advisory Board
Uinta National Forest Grazing Advisory Board.

Persons interested in commenting on this review should submit such comments to the Management Staff, Room 115–A, U.S. Department of Agriculture, Washington, D.C. 20250, before April 1, 1979.

Dated: May 15, 1979.

Bob Bergland,

Secretary.

[FR Doc. 79-15711 Filed 5-18-79; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Great Northern Airlines, Inc.; Application for an All-Cargo Air Service Certificate

May 15, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35333, from Great Northern Airlines, Inc., P.O. Box 6769, Anchorage, Alaska 99502 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before June 8, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-15778 Filed 5-18-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-5-113; Docket 32851; Agreement C.A.B. 1175]

International Air Transport Association; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of May, 1979.

By Order 78–6–78, served June 12, 1978, we instituted this proceeding to determine whether we should continue to approve under Section 412 of the Federal Aviation Act (the "Act"), the agreements adopted by the International Air Transport Association ("IATA") relating to the traffic conferences, and continue to immunize these agreements from the operation of the antitrust laws under section 414 of the Act. Our tentative conclusion in Order 78–6–78 was that we should discontinue our approval of the IATA agreements.

On November 2, 1978 IATA filed for our approval amendments to its *Provisions for the Regulation and Conduct of the IATA Traffic Conferences* and also filed a motion requesting (1) that the question of permanent approval of those amendments under section 412 be consolidated into this proceeding, and (2) that we approve those amendments on an interim basis pending our final decision in this case. On April 6, 1979, IATA filed a motion for expedited

treatment of its proposed traffic conference amendments that has been supported by a number of other parties.

There has been an enormous response to the inquiry proposed by Order 78–6–78. The original period for comments and replies was expanded several times, with the final submissions received on February 12, 1979. We have received responses, ranging in length from one page to over 100 pages, from 48 countries and 65 organizations, including travel agencies, airlines, and shipping interests. The volume of the submissions and our desire to give the most careful consideration to a question of great importance to all countries that participate in international air transportation has required extensive analysis and unfortunate, but unintentional, delay. We anticipate that the actions and futher proceedings announced in this order will permit final resolutions of the issues raised by Order 78–6–78 in the least amount of time consistent with the seriousness of the issues.

Summary

We have decided to take the following actions, which will be discussed in detail in the remainder of this order.

1. The motion for consolidation in this docket of IATA's proposed amendments to the Provisions for the Conduct of the Traffic Conferences is granted.

2. The proposed amendments are approved, on an interim basis, and antitrust immunity is granted. [1]

3. Resolutions dealing with rates or related matters will be considered in this docket.

With respect to those "trade association" or "facilitation" resolutions listed in Appendix B, the tentative finding of disapproval is withdrawn and the investigation announced in Order 78–6–78 is terminated. Other resolutions of this type will be dealt with in proceedings to be described in a future order.

Those resolutions that govern the relationship between IATA carriers and their passenger travel agents are severed from this docket and will be considered in a subsequent proceeding to be instituted shortly. Resolutions dealing with cargo agents are also severed and will be considered in a future order.

4. Further proceedings will be held in this docket, including a "legislative" hearing, briefs, and oral argument to the Board.

[1] To the extent that this order satisfies IATA's request for expedited consideration of the questions of consolidation and interim approval, the motion of April 6, 1979 is granted.

1. Consolidation

The amendments proposed by IATA would effect a reorganization of the traffic conference structure. Members of IATA would be required to participate in conferences dealing with "trade association" activities, which are generally defined as:

* * * Technical, Medical, Legal, Facilitation, Clearing House, standardization of passenger baggage and cargo handling, Multilateral Interline Traffic agreements.

Membership in tariff coordinating conferences, with responsibility for rates, would become optional. In addition, carriers participating in tariff confereces would have some increased latitude to introduce unilateral fares without disturbing the conference rates, and the tariff conferences themselves might be suspended in certain circumstances.

In connection with the submission of its proposed amendments, IATA moved that consideration of the amendments, be consolidated with the comprehensive review that we instituted in Order 78–6–78. Concern for the efficient conservation of the resources of the Board and the many parties dictates that we consider "old" and "new" IATA in the same proceeding. Little would be gained by a Board pronouncement devoted solely to a system that IATA itself now wishes to change. Only the Department of Justice has opposed consolidation; their argument that the attention of the Board would somehow be "diverted" by consolidation is not persuasive. Accordingly, we grant IATA's motion for consolidation.

2. Interim Approval

IATA also requested interim approval and antitrust immunity for its proposed amendments, pending final resolution of the question of permanent approval. In support IATA argued (a) that the amendments are modifications of agreements previously approved by the Board and not finally disapproved by Order 78–6–78; (b) that the amendments should be at least "as attractive" to the Board as previous agreements; and (c) that interim approval and subsequent implementation of the amendments would produce experience under the restructured system that would be valuable to the Board in deciding the question of permanent approval.

We have determined that interim approval and antitrust immunity for the amendments during the period of our review would not be adverse to the public interest. Since we have already determined to continue our approval of the old system, with immunity, pending a final decision on one or more substantial issues in this docket (Order 78–6–78), we see no reason to deviate from that approach with respect to the proposed amendments.

The many countries whose flag carriers are members of IATA and who have commented in this proceeding are virtually unanimous in their support of interim approval. Indeed, we are informed that the requisite approval of the amendments has been given by all other interested governments.[2] IATA will, therefore, be in a position to implement the amendments during the period we have established for our review. If it does, those carriers who wish to withdraw from some, or all, tariff conferences will have the opportunity to do so. Furthermore, those carriers remaining in tariff conferences will have the chance—and the incentive provided by the upcoming peak travel season—to take advantage of the flexibility provided by the amendments to introduce innovative competitive fares.

Having decided to grant interim approval, we believe that it is important that neither IATA nor the other parties misinterpret the significance of our action. In its motion for interim approval, IATA suggested that our failure to approve the amendments "might reasonably be construed as a summary resolution of the complex issues" raised by Order 78–6–78.[3] We reject that conclusion and the logic that supports it. We also wish to stress that our interim approval should not be construed as a resolution of the issues—summary, initial, tentative, or otherwise—in favor of the amendments. We do not accept the argument that the amendments are necessarily "as attractive" as that which preceded them, and we do not intend to convey any assessment of the relative, or absolute, legality or desirability of the amended structure. Furthermore, our interim approval does not create a presumption in favor of the amendments that can be relied upon by the proponents or that must be rebutted by opponents.[4]

In Order 78–6–78 we expressed serious concerns about many aspects and activities of IATA. Those concerns still remain. We intend to use the further proceedings scheduled by this order to

[2] IATA's Motion for Expedited Treatment, April 6, 1979 at 2.

[3] IATA's Motion for Consolidation and Interim Approval, November 2, 1978, p. 11.

[4] IATA's argument that the amendments deserve approval merely because they are modifications of previously approved agreements is seriously, if not fatally, undercut by the concurrent claim that the changes are the most sweeping and significant in IATA's history.

explore and finally resolve the issues. Despite our interim approval, the parties should be prepared for the possibility that our final determination may disapprove or modify the amendments as well as some or all of the specific resolutions put in issue by Order 78–6–78.[5]

The parties should also be on notice that our final action need not necessarily be total approval or total disapproval. The legal and policy considerations that provide the framework for our decision may well apply differently to various aspects of the IATA scheme. For example, air transportation to or from the United States may merit different treatment than air transportation that does not directly affect the United States. "Trade association" activities, and the newly structured IATA conferences responsible for them, may merit different treatment than resolutions and conferences that establish fixed rates.

Parties may wish to address in future proceedings the possibility that we may (a) approve the entire new structure of IATA as it affects air transportation not involving the United States directly; (b) approve the "trade association" conferences as they affect the United States; and (c) disapprove the tariff conferences to the extent they affect rates to or from the United States. Without implying that this is the course we will ultimately adopt, we do note that such a result would be equivalent to our total approval of the IATA amendments followed by the voluntary withdrawal of all carriers from tariff conferences that involve the United States.[6] Since that outcome is provided for by the amendments, any action of ours that mandated a similar result would not necessarily interfere with or impede the implementation of the new structure or its smooth operation.

We have also decided that the public interest requires that the proposed amendments be granted antitrust immunity. The convenience of the travelling and shipping public would not be best served were the IATA system subjected to possible disruption by invocation of the antitrust laws during the relatively short period preceding the completion of our review. A final decision on immunity will be made at the same time as our decision on approval.

[5] Of course, our interim approval of the restructured IATA conferences is not a blanket approval of the resolutions that may be adopted by those conferences. Individual resolutions will still be subject to our review.

[6] We recognize that the simplicity of our hypothesis is complicated slightly because tariff conferences, as now defined, include countries other than the U.S. In theory it would be a relatively simple process to restructure the conferences to accommodate the result we envision should our ultimate decision make it necessary.

3. Specific Resolutions

Order 78–6–78 put in issue the many specific resolutions previously adopted by IATA and our interim approval of the amended structure does not affect them. In view of the large number of these resolutions and because they do not all cause the same degree of concern, we have decided that consideration of all of them in this docket is not the most efficient course.

The comments filed to date demonstrate clearly that the parties realized that our primary focus in Order 78–6–78 was IATA's system of fixed rates established by agreement. Although we do not wish to suggest that other aspects of IATA are not troublesome, there can be no doubt that the anticompetitive nature of rate-setting causes us the greatest concern. Therefore, we will consider in this docket all resolutions that establish rates or conditions of service, and any other resolutions that are related to them. We have included as Appendix C a tentative list of "rate and rate-related" resolutions. While it has not been possible to be sure that those resolutions are all that should be included in this category, the parties should not have any difficulty in determining the general subject matter of resolutions here at issue. Should further investigation reveal that other specific resolutions are sufficiently similar to warrant inclusion, a supplementary list will be issued.

As Order 78–6–78 recognized, many IATA resolutions "are not anti-competitive in nature and may result in valuable efficiencies." [7] Resolution of this description have in the past been referred to as "facilitation" agreements, and under the amended IATA structure would presumably be the responsibility of the "trade association" conferences, the Passenger and Cargo Services Conferences. Since Order 78–6–78 was issued, we have undertaken a review of the many resolutions that fall into this category. As a result of our study, we have found, with respect to a number of these resolutions, no basis to conclude that our prior approval and grant of immunity should not be continued. Therefore, we withdraw the tentative finding of disapproval and terminate the investigation announced in Order 78–6–78, as to those resolutions listed in Appendix B.

The resolutions in this category are designed to standardize and thus simplify a variety of interactions between carriers so that the complex network of international aviation can function smoothly and passengers can move easily between the various components of the system. The size, content and methods of preparation of documents, forms, tickets and tags are established. Standard definitions of terms are provided, as are procedures for various inter-carrier communications and transactions—*i.e.*, forwarding tickets, confirming interline reservations, handling baggage and dealing with unaccompanied minors. In general, these resolutions deal with the relationship between carriers, or between carriers and passengers, in ways that do not have competitive implications.

Our review has also revealed that a significant number of trade association resolutions present problems that prevent us from terminating the investigation at this time. With respect to those resolutions we will institute in the near future an investigation, separate from this docket, in which justifications for those resolutions may be presented and considered.

We have decided to sever from this docket all resolutions relating to IATA's passenger agency program. In most major respects the IATA program closely parallels ATC's agency program in the United States. Since examination of either program would involve consideration of similar elements and justifications—and in many cases identical language—we believe that efficiency dictates that the two programs be dealt with simultaneously. We will, therefore, institute shortly an investigation that encompasses both agency programs.

The IATA cargo agency program involves issues that are somewhat similar to those involved in the passenger program. We will be in a better position to deal with matters peculiar to the cargo system after we have considered the passenger program. Therefore, we will also sever from this docket those resolutions dealing with cargo agency matters, and institute a further investigation following our combined review of the IATA/ATC passenger agency program.

4. Further Proceedings

Virtually all parties have urged that the issues raised by Order 78–6–78 are so complex that further proceedings are necessary. We realize now, as we did when Order 78–6–78 was issued, that "alteration or withdrawal of (our) approval of the traffic conference mechanism would have far-reaching

[7] Order 78–6–78 at 7.

consequences for the international airline system".[8] Despite the volume of the submissions filed in this docket, we believe that further exploration of factual and policy questions would be valuable in assisting us in our final determination. Consequently, we will conduct a "legislative" hearing, before the full Board, to study the economic justifications for continued approval of IATA and the international ramifications of possible disapproval. We also contemplate a further round of briefs, and oral argument by counsel before our final decision.

Before describing in more detail the scope of the testimony we hope to receive and the format in which we intend to scrutinize it, some comments are in order as to the legal context in which we are proceeding. First, no party has argued that this is a case of on-the-record adjudication subject to Sections 554 and 557 of the Administrative Procedure Act. Second, the parties also appear to recognize that Section 412(d) of the Federal Aviation Act, which authorizes "hearings" in cases like these, is clearly and expressly permissive, and that courts have consistently held that adjudicatory trials are not generally required to meet its mandate. *See, e.g., National Air Carrier Ass'n* v. *C.A.B.* (NACA II), 442 F.2d 862 (D.C. Cir. 1971). We believe, moreover, that the reference to "substantial evidence" in Section 1006 of the Act cited by IATA, [9] does not, standing by itself, require us to convene an evidentiary hearing. *See, Industrial Union Department, A.F.L.–C.I.O.* v. Hodgson, 499 F.2d 267 (D.C. Cir. 1974).

IATA's claim that Order 78–6–78 rests on unexamined "adjudicative facts" is entirely unpersuasive.[10] Adjudicative facts are useful in determining specific controversies between specific parties as to the consequence of past conduct, and usually answer the questions of who did what, where, when, how, why, and with what motive or intent. They are distinguished from "legislative" facts, which help an agency decide broad policy issues of general applicability. *See,* Davis, *Administrative Law Text,* 160 (1972). Our decision in this case will be influenced primarily by our perception of the public interest and our assessment of current and future economics and relationships in the international aviation area. This sort of inquiry into the realm of policy clearly involves legislative not adjudicative facts. As the Second Circuit has well summarized: "(a)djudicatory hearings serve an important function when the agency bases its decision on the peculiar situation of individual parties who know more about this than anyone else. But when, as here, a new policy is based upon the general characteristics of an industry, rational decision is not furthered by requiring an agency to lose itself in an excursion of detail that too often obscures fundamental issues rather than clarifies them". *WBEN, Inc.* v. *United States,* 396 F.2d 601, 618 (1968). *See also American Airlines* v. *C.AB.* 359 F.2d 624 (D.C. Cir.), *cert. denied* 385 U.S. 843 (1966); *Shell Oil Co.* v. *FPC,* 520 F.2d 1961 (5th Cir. 1975).

We are mindful of the views expressed in *National Air Carrier Ass'n* v. *C.A.B.* (NACA I), 436 F.2d 186 (D.C. Cir. 1970) that our inquiry and findings be particularly searching when serious antitrust issues are involved. Even where agencies have considered such issues under statutes with an explicit requirement for "notice and hearing" before decision, however, the courts have held that the proceedings "may approach the legislative rather that the adjudicatory model". *Marine Space Enclosures, Inc.* v. *Federal Maritime Commission,* 420 F.2d 577, 589–90 (.C. Cir. 1969). Plainly, we are free to devise those fair and efficient procedures which are best calculated to enlighten the Board and assist in reaching an informed decision within a reasonable time.

We have concluded that assignment of this case to an administrative law judge would not be the best vehicle to help us in rendering a correct decision. While an ALJ's comments on the case would undoubtedly be helpful, that course would likely result in a substantial delay, and, even more importantly, preclude us from directly confronting experts in an area where the exercise of our judgment and expertise is paramount. Adversarial cross-examination, in our view, is not particularly well suited to exploring alternative policy options. A record fully responsive to our concerns and those of the parties can best be developed through our direct and active involvement.

The scope of the hearing will be broad and we will entertain all submissions that bear on the questions remaining before us in this docket: should we approve the IATA structure, "old" or "new", and should we continue our approval of rate and rate-related resolutions. The majority of the comments we have received thus far have concentrated on legal issues, and further discussion of purely legal questions should be saved for briefs and argument to the Board. In preparing testimony for the hearing, the parties are encouraged to address all issues of fact or policy that they believe should be of decisional significance. Although we realize that many of the issues do not lend themselves to easy answers, the Board would derive the greatest benefit from submissions characterized by concreteness, precision, and succinctness whenever possible. Special efforts should be made to provide detailed economic analysis of the costs and benefits—to consumers, carriers and countries—of the three major options open to us: continued approval of IATA, total disapproval or partial disapproval.[11] Similar support should be given if different treatment is advocated for different phases of, particpants in, air transportation.[12]

As a guide to the parties, we would welcome testimony supporting or supplementing positions previously taken with respect to the specific questions posed in Order 78–6–78[13] as well as the factual statements appearing in that order. We would also expect that the parties would address the actions taken and questions raised by this order, especially the possibility of partial approval of the IATA scheme. In addition, we have listed in appendix D. suggested topics that some parties may wish to consider.

Although we have not established a limitation on the length of original testimony, we do request that parties provide a summary of all submissions that a) states succinctly the questions the party is addressing and the position taken, and b) is no longer than 10 pages.[14] Replies should be limited to 25 pages. In addition, we encourge parties with similar interests or positions to

[8] Order 78–6–78, p. 8.

[9] Actually, section 1006 merely states that the Board's findings of fact are conclusive on judicial review if supported by substantial evidence.

[10] Examples of "adjudicative" facts cited by IATA include whether "many resolutions would be flatly prohibited by our basic antitrust law, the Sherman Act", whether "U.S. carriers have ceased to dominate international aviation", and whether "changes in the circumstances" since the Board's original approval of the IATA mechanism have occurred. (Response to Show Cause Order, pp. 65–66).

[11] Order 78–6–78, Question 1, p. 8.

[12] *Id.,* Question 6, p. 9.

[13] Questions 3 and 4, p. 8, concerning the extra-territorial reach of the U.S. antitrust laws and the Board's regulatory powers, are primarily legal and should not be specifically addressed. However, the general question of the consequences of removal of immunity from some or all of the activites of IATA may be considered.

[14] While testimony should be self-contained—i.e., the reader should be provided with all of the witness's assumptions as well as the means to verify factual assertions—we recognize that some references to the published literature may be necessary. In such cases, the witness should be prepared to proved, upin request, copies of any document relied upon, as well as copies of workpapers in general.

submit joint written presentations and sponsor joint witnesses, in order to eliminate duplication of effort for the parties and the Board.

At the hearing we expect to question witnesses in panels, organized to the extent possible by subject matter.[15] We will be assisted by senior members of the staff, and will rely on our own review of the submissions as well as questions proposed by the parties.[16] In addition, we have requested staff to work actively with the parties to ensure that a full range of opinion is fairly represented in the proceedings. Staff is authorized to invite qualified persons to present their views to the Board, if desirable toward this end. Staff will also be responsible, subject to our approval, for organizing the witnesses into panels and preparing a preliminary schedule for the hearing.[17]

The scope of the proceedings we have outlined as well as the schedule for their completion,[18] will involve a substantial commitment of time and effort by the Board, its staff and the parties. We believe the importance of the issues warrants such an effort.

Accordingly, pursuant to the Federal Aviation Act, as amended, and particularly sections 102, 204(a), 412 and 414 thereof,

It is ordered, That: 1. The motion for consolidation in this docket of IATA's proposed amendments to the Provisions for the Conduct of the Traffic Conferences is granted.

2. The proposed amendments are approved, on an interim basis, and antitrust immunity is granted.

3. With respect to those resolutions listed in Appendix B, the tentative finding of disapproval is withdrawn and the investigation announced by Order 78–6–78 is terminated.

4. The remaining "trade association" or "facilitation" resolutions are severed from this docket, as are resolutions concerning passenger and cargo experts.

5. Further proceedings will be held pursuant to the schedule in Appendix A.

6. This order shall be served on all parties who have previously filed in this docket.

This Order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.[19]

Phyllis T. Kaylor,

Secretary.

Appendix A

Schedule

June 29—Original Testimony.
July 13—Reply Testimony/Proposed Qustions.
July 23–25—Oral Presentation.
August 17—Legal Briefs.
Sept. 12—Oral Argument.
Sept. 13—Instructions to Staff.
Oct. 15—Opinion.

Appendix B

The following list includes those "trade association" or "facilitation" resolutions that are "approved"—the tentative finding that they should be disapproved is withdrawn and the investigation announced by Order 78–6–78 is terminated. Some of these resolutioins refer to other resolutions, or may be tied, either by subject matter or logical connection, to other resolutions or series of resolutions, not hereby approved. If the latter are subsequently disapproved, the resolutions listed below would have to be amended to eliminate the reference or other possible inconsistencies.

IATA Resolution No.

020	025	270	270a	270b	274	275a
275bb	275d	275e	275h	275i	275j	276
277	277a	277b	278b	280	280a	290
291	293	295	300	300a	301	301b
302	302a	303	303a	305	307	308
308a	308b	310a	313	316	700	701
720	720a	720b	720c	721b	721e	750
751	810g	850c	850e	850f	850g	852
1008	1010f	1077	1200	1201	1202	1270
1271	1272	1273	1275	1279	1280	1281
1282	1283	1284	1285	1286	1287	1288
1289	1290	1291	1292	1293	1294	1295
1296	1298a	1298b	1298c	1300	1300a	1300b
1301	1303b	1303c	1305	1305a	1310	1314
1316	1318	1319	1411	1700	1702d	1703
1704	1721f	1725	1726	1727	1729	1953

Appendix C.—*Rate and Rate-Related Resolutions*

001	001b series	001e	001f
001g	001i	001k	001m
001r	001s	001t	001z
001aa	001dd	001ee	001pp
001qq	001tt	001vv	001mm
001ss	001xx	002 series	004 series
006	007	008	008a
009	009a	010a	010b
011 series	012 series	013 series	014 series
015 series	017	021 series	022
023 series	026	030, 031, 032, 033, series	035
036	037	038	039
047	048	049 series	050–059 series
060–069	070–079	080–090	091–097
098 series	100 series	102 series	105 series
106	115 series	116	140
150	151	153 series	150a
151a	154	200 series (except resos. f & g)	201 series
203 series	204	205	250
281	283 series	308b	312
LA16	LA 21	LA29	SA

Appendix D

Suggested Topics

1. Is multilateral rate-setting necessary? What are its benefits? What are its detriments?

2. What percentage of international air traffic is to or from the U.S.? What percent of that is purchased by U.S. citizens?

3. In the absence of capacity controls (which are not relevant to this proceeding):

(a) Is the rate of return for carriers in markets where there is no effective multilateral rate agreement higher, lower, or the same as in comparable markets where a multilateral rate agreement is in force?

(b) Are rates in markets where there is no effective multilateral rate agreement higher, lower, or the same as in comparable markets where a multilateral rate is in force?

(c) Are traffic growth rates in markets where there is no effective multilateral rate agreement higher, lower, or the same as in comparable markets where a multilateral rate agreement is in force?

4. Will CAB disapproval of traffic conferences lead to lower fares? Will such fares be maintained without traffic conferences at economically viable levels? Will lower fares lead to increased international travel and international commerce and, if so, will all nations benefit?

5. Will any countries or group of countries be more seriously affected than others by CAB disapproval or withdrawal of immunity from traffic conferences? Is different treatment justified? Feasible?

6. To what extent do nations subsidize internal air travel by their nationals? External traffic? Does the existence of subsidy by other nations of their national carriers have policy significance for a CAB decision to approve or disapprove traffic conferences?

7. To the extent that IATA's "unanimity rule" has tended to fix rates at a level that covers the costs of the least efficient carrier, the IATA conference system might be seen as a form of cross-subsidization. Should the CAB continue approval of such a system? Are there alternatives to such a system, on a regional or international level?

8. What would happen if all carriers opted out of conferences affecting the U.S.?

9. Are: (1) "mutual disapproval" rate articles; (2) "country of origin" rate articles; or (3) bilateral negotiations with "Bermuda I" rate articles workable substitutes for traffic conference ratemaking?

10. Is any method of staged or gradual transition to non-conference rates feasible? Would such a system allow carriers of other countries to adjust their practices and operations so that they are better able to

[15] Parties wishing to present witnesses at the hearing should indicate their intentions at the same time as their replies.

[16] Parties wishing to propose questions for witnesses should submit them separately at the same time as their replies. The Board will review the proposed questions but cannot, of course, guarantee that all will be used.

[17] An undertaking of this sort is inevitably burdened with logistical problems. All participants should strive to remain as flexible as possible in their scheduling during the week we have set aside for the hearing. Filing and service requirements will be in accordance with the Board's Rules of Procedure, 14 C.F.R. Part 302. Our present intention is to adopt all testimony into the record by motion, in order to allow the fullest possible time for the exchange and interplay of facts and opinion. Staff is available to assist any party in complying with this Order. Please contact Paul H. Karlsson, BPDA, 673–5914.

[18] A complete schedule is set forth in Appendix A. We intend to adhere to it and will require the parties to do so.

[19] All Members concurred except Member O'Melia who concurred and dissented with a concurring and dissenting statement to follow.

function successfully in an openly competitive environment?

[FR Doc. 79-15776 Filed 5-18-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Nevada Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nevada Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on June 8, 1979, at the Hotel Maxim, 160 East Flamingo Road, Las Vegas, Nevada.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is to discuss SAC report and to evaluate projected activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 15, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-15795 Filed 5-18-79; 8:45 am]

BILLING CODE 6335-01-M

Oregon Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oregon Advisory Committee (SAC) of the Commission, will convene at 1:30 pm and will end at 4:30 pm, on June 6, 1979, at the Federal Building Room 333, Third and Madison, Portland, Oregon.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is introduction of members and new chair; orientation for newly appointed SAC members; consideration of program issues for next project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 16, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-15796 Filed 5-18-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

President's Export Council; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the President's Export Council will be held on Thursday, May 24, at 9:00 a.m. in the Department of Commerce, Room 4830. The President's Export Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12110 of December 28, 1978. The President's Export Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy. This meeting is being called on short notice because of the need to convene the Council at the earliest date and to schedule the initial meeting in order to facilitate attendance by the President and the Council members.

The agenda for the meeting will be as follows:

1. Welcoming members and opening remarks.
2. Introduction of members, objectives and structure of the President's Export Council.
3. Report on the President's National Export Policy.
4. Report on the Multilateral Trade Negotiations.
5. Comments by members on export expansion actions in their respective sectors and general discussions to identify problems to be adressed by the Council.
6. Other organizational business, announcements and plans for the next meeting.

The Council will proceed to the White House to be welcomed by the President.

A limited number of seats at the Commerce Department meeting will be available to the public on a first-come basis. The public may file written statements with the Council before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting will be made availabe on written request, addressed to the Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the President's Export Council may be obtained from Ms. Jill Feltheimer, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5603.

Dated: May 17, 1979.

Peter G. Gould

Deputy Assistant Secretary for Export Development.

[FR Doc. 79-16003 Filed 5-18-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: National Marine Mammal Laboratory, Northwest amd Alaska Fisheries Center, National Marine Fisheries Service.

b. Address: 7600 Sand Point Way N.E., Building 32, Seattle, Washington 98115.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Northern elephant seals (*Mirounga angustirostris*), 4.

4. Type of Take: Beached and stranded animals will be held up to 6 months to study the effects of ciguatoxin on marine mammals. Two animals will be sacrificed for toxicology and histopathology studies. The two remaining animals, if successfully rehabilitated, will be returned to the facility where obtained.

5. Location of Activity: California.

6. Period of Activity: One year.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mamal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of

Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mamals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington.

Dated: May 14, 1979.

William Aron,

Director, Office of Marine Mammals and Endangered Species.

[FR Doc. 79-15779 Filed 5-17-79; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council's Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Scientific and Statistical Committee (SSC) which will meet to discuss: (1) logbooks; (2) groundfish—task force and recreational; (3) Silver Hake FMP development; and (4) other business.

DATES: The meeting will convene on Monday, June 11, 1979, at approximately 9:30 a.m. and adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Carriage House, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, Telephone: (617) 535-5450.

Dated: May 16, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-15805 Filed 5-18-79; 8:45 am]

BILLING CODE 3510-22-M

Sea Grant Review Panel; Cancellation of Meeting

The Sea Grant Review Panel meeting scheduled for May 30 and 31, 1979, (**Federal Register**, May 3, 1979, p. 25895) has been cancelled due to Administrative difficulties.

R. L. Carnahan,

Acting Assistant Administrator for Administration.

[FR Doc. 79-15781 Filed 5-18-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Boat Basin on the Siuslaw River at Florence, Oreg.

AGENCY: U.S. Army Corps of Engineers (DOD).

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DIES).

SUMMARY: 1. The proposed project is a small boat basin to be constructed under Section 107 of the River and Harbor Act of 1960. The facility would be located at River Mile 1 on the north side of The Siuslaw River, Florence, Oregon. The facility, as proposed, would provide berths for 65 commercial boats and 250 sport boats. Space would also be provided for 10 transient commercial boats. It is anticipated that a fish-receiving station would locate at the basin.

2. Alternatives being actively evaluated are expansion of an existing facility in Florence, Oregon, 5 river miles upstream, and no action.

3. The scoping process will entail submission of a summary of the proposal to affected Federal, State, and local agencies and interested private organizations and parties to afford them the opportunity to comment on the significant issues which should be addressed in the DEIS. It is expected that among these issues will be impacts on aquatic life and land use generated by implementation of the proposal. Further agency and public input will be obtained during preparation of the DEIS and as part of the formal DEIS review process.

4. The DEIS is expected to be available to the public in February 1980.

5. Questions about the proposed action and DEIS can be answered by: District Engineer, U.S. Army Corps of Engineers, Portland District, ATTN: NPPEN-PL-3, P.O. Box 2946, Portland, Oregon 97208.

Dated: May 10, 1979.

J. C. Huetter,

Acting Chief, Engineering Division.

[FR Doc. 79-15782 Filed 5-18-79; 8:45 am]

BILLING CODE 3710-AR-M

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 28 June 1979, at the National Bureau of Standards, Boulder, Colorado 80303.

The mission 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 Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 15, 1979.

[FR Doc. 79-15709 Filed 5-18-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Subcommittee on Review of Commission Decisional Process Meeting

May 16, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Subcommittee on Review of the Commission Decisional Process of the Advisory Committee on revision of Rules of Practice and Procedure will meet Friday, June 8, 1979 from 10 a.m. to 3 p.m., at the Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Hearing Room A., Washington, D.C.

The purpose of the meeting is to continue the discussions initiated at the first meeting and to provide individual members an opportunity to report on the work they have been doing since the last meeting.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 N. Capitol St., N.E., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal Holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15770 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–360]

Appalachian Power Co.; Filing

May 15, 1979.

The filing Company submits the following:

Take notice that Appalachian Power Company (APCo), on May 9, 1979, tendered for filing a power sales agreement executed with the City of Salem, Virginia dated March 27, 1979. This agreement is intended to replace the existing service agreement between APCo and the City of Salem, designated by the Commission as Appalachian Power Company FERC Rate Schedule No. 77, that by its terms expired on April 1, 1979. The new agreement provides for an increase in contract capacity and a change in the term of service to April 30, 1984.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–5677 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–90]

Central Kansas Power Co., Inc.; Compliance Filing

May 15, 1979.

Take notice that on April 9, 1979, Central Kansas Power Company Inc., (CKP), tendered for filing pursuant to Ordering Paragraphs "J" and "K" of the Commission's Order issued January 31, 1979, as part of its existing FERC Electric Tariff, copies of Supplements No. 7 and No. 8 to its Rate Schedule FERC No. 1.

CKP states that the Ordering Paragraphs "J" and "K" of the Commission's January 31, 1979 Order rejected CKP's purchased power adjustment clause, granted summary disposition of the ADITC, Federal income tax rate, fuel stock and demand ratchet issues, and ordered CKP to refile its capital structure and rates to reflect the summary disposition of these issues. Supplements No. 7 and No. 8 to Rate Schedule FERC No. 1 reflects the summary disposition of the aforesaid issues, and Supplement No. 8 in addition reflects the rejection of the purchased power adjustment clause.

In addition, CKP filed herewith the following:

(a) Statement of the Nature, the reasons and the Basis for the Proposed Rate Change;

(b) Supplement No. 7 to Rate Schedule FERC No. 1;

(c) Supplement No. 8 to Rate Schedule FERC No. 1;

(d) Revised Supporting Statements A through P, as described in Section 35.13(b)(4) of the Commission's Regulations, including return, Taxes, depreciation and operating expenses, and an allocation of such costs the service rendered based on estimates for the twelve (12) consecutive months beginning immediately after the end of Period I (these Statements are also labelled "Period II" in the upper-right corner).

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth K. Plumb,

Secretary.

[FR Doc. 79–15678 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01–M

Crystal Oil Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas, Oil and Gas Division

FERC Control Number: JD79–4221
API Well Number: 42–365–30605
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Holt 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 4,000 MMcf.

FERC Control Number: JD79–4222
API Well Number: 42–365–30621
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Gilliam 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 7,000 MMcf.

FERC Control Number: JD79–4223
API Well Number: 42–365–30612
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Gilliam 1
Field: Panola
County: Panola

Purchaser: United Gas Pipeline Company
Volume: 7,000 MMcf.

FERC Control Number: JD79–4224
API Well Number: 42–365–30593
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: E. Douglas 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 9 MMcf.

FERC Control Number: JD79–4225
API Well Number:
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: E. Douglas 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 9 MMcf.

FERC Control Number: JD79–4226
API Well Number: 42–365–30308
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 7
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79–4227
API Well Number: 42–365–30310
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 6
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79–4228
API Well Number: 42–365–30174
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 5
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79–4229
API Well Number: 42–365–30300
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 4
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79–4230
API Well Number: 42–365–30298
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Douglas Estate 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 55,000 MMcf.

FERC Control Number: JD79–4231
API Well Number: 42–365–30600
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 4
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79–4232
API Well Number: 42–365–30599
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79–4233
API Well Number: 42–365–30598
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: .13 MMcf.

FERC Control Number: JD79–4234
API Well Number: 42–365–30309
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Caldwell 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 13,000 MMcf.

FERC Control Number: JD79–4235
API Well Number: 42–365–30789
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Anderson 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Company
Volume: .8 MMcf.

FERC Control Number: JD79–4236
API Well Number: 42–239–31244
Section of NGPA: 103
Operator: Sovereign Exploration Company
Well Name: Sovereign No. 1 E. H. Seidel
Field: Edna East
County: Jackson
Purchaser: Tennessee Gas Pipeline
Volume: 190 MMcf.

FERC Control Number: JD79–4237
API Well Number: 42–025–30953
Section of NGPA: 103
Operator: Sovereign Exploration Company
Well Name: Sovereign No. Ella May
Field: Blanconia
County: Bee
Purchaser: United Gas Pipeline Company
Volume: 55 MMcf.

FERC Control Number: JD79–4238
API Well Number: 42–365–30282
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Hull A–13L
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipeline Company
Volume: 240 MMcf.

FERC Control Number: JD79–4239
API Well Number: 4236530274
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: Mangham Unit No. 3
Field: Carthage Cotton Valley
County: Panola
Purchaser: United Gas Pipe Line Company
Volume: 450 MMcf.

FERC Control Number: JD79–4240
API Well Number:
Section of NGPA: 103
Operator: Key Production Company
Well Name: Longino, et al 79380
Field: Carthage Cotton Valley
County: Panola
Purchaser: Arkansas Louisiana Gas Company
Volume:

FERC Control Number: JD79–4241
API Well Number:
Section of NGPA: 103
Operator: Key Production Company
Well Name: Ruby Dodd 1 78938
Field: Carthage Cotton Valley
County: Panola
Purchaser: Arkansas Louisiana Gas Company
Volume:

FERC Control Number: JD79–4242
API Well Number: 42–495–30908
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 74
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 98 MMcf.

FERC Control Number: JD79–4243
API Well Number: 42–495–30917
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton "E" No. 76
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 59 MMcf.

FERC Control Number: JD79–4244
API Well Number: 42–495–30969
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: Gulf Jenkins No. 10
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 11 MMcf.

FERC Control Number: JD79–4245
API Well Number: 42–495–30915
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: M. J. Bashara No. 59
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 90 MMcf.

FERC Control Number: JD79–4246
API Well Number: 42–335–31227
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: H. McKinney No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79–4247
API Well Number: 42–335–31182
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 7
Field: Jameson North Strawn
County: Mitchell

Purchaser: Lone Star Gas Company
Volume: 57 MMcf.

FERC Control Number: JD79-4248
API Well Number: 42-335-31168
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 6
Field: Jameson N. Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79-4249
API Well Number: 42-335-30853
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Frankie Stubblefield No. 4
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 157 MMcf.

FERC Control Number: JD79-4250
API Well Number: 42-335-31235
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubblefield "A" No. 2
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 25 MMcf.

FERC Control Number: JD79-4251
API Well Number: 42-335-30835
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubble Field No. 2
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 35 MMcf.

FERC Control Number: JD79-4252
API Well Number: 42-335-30900
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: F. Stubblefield "A" No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 123 MMcf.

FERC Control Number: JD79-4253
API Well Number: 42-335-30902
Section of NGPA: 103
Operator: Sun Oil Company
Well Name: Dortha Rannefeld No. 1
Field: Jameson North Strawn
County: Mitchell
Purchaser: Lone Star Gas Company
Volume: 39 MMcf.

FERC Control Number: JD79-4254
API Well Number: 42-165-31243
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec 127-B No. 7
Field: GMK SO (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 8.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objectiong to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15697 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-359]

Electric Energy, Inc.; Notice of Filing

May 15, 1979.

The filing Company submits the following: Take notice that on May 8, 1979, Electric Energy, Inc. (EEInc.) tendered for filing a supplement to Rate Schedule FERC No. 8, dated April 27, 1979, and entitled "Fifth Revised Service Schedule B" to the Interim Supplemental and Surplus Power Agreement, Amendment No. 5. This agreement is between EEInc. and its Sponsoring Companies: Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU), and Union Electric Company (UE). The Sponsoring Companies concurred in the filing. EEInc. states that Fifth Revised Service Schedule B provides for an increase in the reservation charge for the supply of Supplemental Power by the Sponsoring Companies to EEInc.

EEInc. states that the reason for the increase is to cover the Sponsoring Companies' increased costs and to set the reservation charge at a level that is competitive with other reservation charges prevailing in the Companies' service areas.

The Company requests that Fifth Revised Service Schedule B be permitted to become effective on July 1, 1979.

According to EEInc. copies of this filing have been sent to the Sponsoring Companies, the Illinois Commerce Commission, the Kentucky Energy Regulatory Commission, and the United States Department of Energy.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15679 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-41]

El Paso Electric Co.; Application

May 15, 1979.

Take notice that on May 8, 1979, El Paso Electric Company (Applicant) filed an application with the Commission, pursuant to section 204 of the Federal Power Act and Part 34 of the Commission's regulations for authority to negotiate the private placement of up to $15 million of new Preferred Stock. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Preferred Stock will be used to repay short-term debt outstanding.

Any person desiring to be heard or to make any protest with reference to the application should on or before June 1, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15680 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979

On May 8, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79–5654
API Well Number: 30039211690000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 68
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 17.0 MMcf.

FERC Control Number: JD79–5655
API Well Number: 30039213340000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 91
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 16.0 MMcf.

FERC Control Number: JD79–5656
API Well Number: 30039213330000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lindrith Unit Com 92
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15693 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

Enserch Exploration, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State Oil and Gas Board of Alabama

FERC Control Number: JD79–4155
API Well Number: 01–057–20107
Section of NGPA: 103
Operator: Enserch Exploration, Inc.
Well Name: T. Rowland No. 1
Field: Fayette West (Carter)
County: Fayette
Purchaser: Coronado Transmission Company
Volume: 40 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–15699 Filed 5–18–79; 8:45 am]
BILLING CODE 6450–01–M

Exxon Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and appliable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas Oil and Gas Division

FERC Control Number: JD79–4170
API Well Number: 42–261–30233
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Mrs. S. K. East Well No. 86–D
Field: Rita (7–E, II)
County: Kenedy
Purchaser: Natural Gas Pipeline Company.
Volume: 183 MMcf.

FERC Control Number: JD79–4171
API Well Number: 42–495–30985
Section of NGPA: 103
Operator: Bass Enterprises Production Co.
Well Name: J. B. Walton No. 85
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 127 MMcf.

FERC Control Number: JD79–4172
API Well Number: 42–219–32383
Section of NGPA: 103
Operator: Bass Enterprises Production Co.
Well Name: Slaughter Unit No. 1 Well No. 10
Field: Slaughter
County: Hockley
Purchaser: Amoco Production Company
Volume: 7 MMcf.

FERC Control Number: JD79–4173
API Well Number: 42–495–30959
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 83
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 163 MMcf.

FERC Control Number: JD79–4174
API Well Number: 42–495–30950
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 82
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 101 MMcf.

FERC Control Number: JD79–4175
API Well Number: 42–495–30940
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 80
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 140 MMcf.

FERC Control Number: JD79–4176
API Well Number: 42–495–30923
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: J. B. Walton No. 77
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 57 MMcf.

FERC Control Number: JD79–4177
API Well Number: 42–495–30978
Section of NGPA: 103
Operator: Bass Enterprises Production Company
Well Name: M. J. Bashara No. 63
Field: Keystone
County: Winkler
Purchaser: Transwestern Pipeline Company
Volume: 38 MMcf.

FERC Control Number: JD79–4178
API Well Number: 42–605–30052
Section of NGPA: 103
Operator: Mitchell Energy Offshore Corp.
Well Name: State Tract 179–S No. 2
Field: Block 176–S (Miocene S–4, FB–1)
County: Galveston
Purchaser: Natural Gas Pipeline Co. of America
Volume: 38.5 MMcf.

FERC Control Number: JD79–4179
API Well Number:
Section of NGPA: 103
Operator: Michel T. Halbouty
Well Name: Rocker "B" LSE No. 10
Field: Sprayberry
County: Reagan
Purchaser: El Paso Natural Gas Company
Volume: 13 MMcf.

FERC Control Number: JD79–4180

API Well Number:
Section of NGPA: 103
Operator: Geo. O. Shettle
Well Name: T. D. Blessing No. 1
Field: Nemec
County: Nueces County, Texas
Purchaser: Tennessee Gas Pipeline
Volume: 140.000 MMcf.

FERC Control Number: JD79–4181
API Well Number:
Section of NGPA: 103
Operator: Michel T. Halbouty
Well Name: Rocker "B" LSE No. 6
Field: Sprayberry
County: Reagan
Purchaser: El Paso Natural Gas Co.
Volume: 14 MMcf.

FERC Control Number: JD79–4182
API Well Number: 42–165–30604
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 9
Field: Cmk So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4183
API Well Number: 42–165–30632
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: W. A. Lindsey "B" No. 1
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 1.8 MMcf.

FERC Control Number: JD79–4184
API Well Number: 42–165–3–699
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: H & J Sec. 127–B No. 2
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 6.0 MMcf.

FERC Control Number: JD79–4185
API Well Number: 42–165–31188
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: John Braddock No. 3
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: .400 MMcf.

FERC Control Number: JD79–4186
API Well Number: 42–165–31170
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 25
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.8 MMcf.

FERC Control Number: JD79–4187
API Well Number: 42–165–31200
Section of NGPA: 103
Operator: Mobil Oil Corporation
Well Name: Tom May No. 17
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: .730 MMcf.

FERC Control Number: JD79–4188
API Well Number: 42–165–30633
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Tom May No. L#
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–4189
API Well Number: 42–165–30628
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Tom May No. 10
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 2.5 MMcf.

FERC Control Number: JD79–4190
API Well Number: 42–165–30648
Section of NGPA: 103
Operator: Mobile Oil Corporation
Well Name: Tom May No. 15
Field: GMK So. San Andres
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–4191
API Well Number: 42–175–31157
Section of NGPA: 103
Operator: SA–GU Corporation
Well Name: Lambert Heirs Well No. 2
Field: Circle A
County: Goliad
Purchaser: United Gas Pipe Line Co.
Volume: 91 MMcf.

FERC Control Number: JD79–4192
API Well Number: 42–105–30199
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Glegg 1–61 No. 1
Field: Ozona Canyon Sand
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 1 MMcf.

FERC Control Number: JD79–4193
API Well Number:
Section of NGPA: 103
Operator: Michel T. Halbouty
Well Name: Rocker "B" LSE No. 4
Field: Sprayberry
County: Reagan
Purchaser: El Paso Natural Gas Company
Volume: 13 MMcf.

FERC Control Number: JD79–4194
API Well Number: 42–105–30216
Section of NGPA: 108
Operator: Shenandoah Oil Corporation
Well Name: Clegg 1–83
Field: Ozona Canyon Sand
County: Crockett
Purchaser: Northern Natural Gas Company
Volume: 12 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15696 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01

[Docket No. ER79–363]

Florida Power & Light Co.; Revised Exhibit A

May 15, 1979.

The filing Company submits the following: Take notice that on May 9, 1979, Florida Power & Light Company (FPL) tendered for filing a revised Exhibit A which provides for a change in voltage level to Lee County Electric Cooperative, Inc. at the Lee delivery point.

FPL proposes an effective date of April 16, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15681 Filed 5–18–79; 8:45 am]

BILLING CODE 640–01–M

IMC Exploration Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the

indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79-3494
API Well Number: 17-111-00242
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Grayling Lbr. #58
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79-3495
API Well Number: 17-071-20020
Section of NGPA: 103
Operator: Florida Gas Exploration Co.
Well Name: L&N Railroad No. 6
Field: Unknown Pass
County: Orleans Parish
Purchaser: Southern Natural Gas Company
Volume: 1,300 MMcf.

FERC Control Number: JD79-3496
API Well Number: 17-015-016190000
Section of NGPA: 108
Operator: Pennzoil Producing Company
Well Name: Webb No. A-1
Field: Sligo
County: Bossier
Purchaser: United Gas Pipe Line Company
Volume: 17 MMcf.

FERC Control Number: JD79-3497
API Well Number: 17-073-21056
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #1
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 4.2 MMcf.

FERC Control Number: JD79-3498
API Well Number: 17-073-21058
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #2
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.4 MMcf.

FERC Control Number: JD79-3499
API Well Number: 17-073-21059
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #3
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.1 MMcf.

FERC Control Number: JD79-3500
API Well Number: 17-073-21060
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #4
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-3501
API Well Number: 17-073-21061
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #5
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 4.2 MMcf.

FERC Control Number: JD79-3502
API Well Number: 17-073-21062
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #6
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 6.4 MMcf.

FERC Control Number: JD79-3503
API Well Number: 17-073-21083
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #7
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.6 MMcf.

FERC Control Number: JD79-3504
API Well Number: 17-073-21084
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #8
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.9 MMcf.

FERC Control Number: JD79-3505
API Well Number: 17-073-21086
Section of NGPA: 108
Operator: Lobo Oil & Gas Corporation
Well Name: Phillips #9
Field: Monroe Gas
County: Ouachita Parish
Purchaser: United Gas Pipe Line Company
Volume: 3.9 MMcf.

FERC Control Number: JD79-3506
API Well Number: 17-027-20059
Section of NGPA: 108
Operator: Hassie Hunt Exploration Company
Well Name: H'ville B Suc Harrell B 2 125978
Field: Lisbon
County: Claiborne
Purchaser: Texas Eastern Transmission Corp.
Volume: 5* MMcf.

FERC Control Number: JD79-3507
API Well Number: 17-109-22104
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: L. V. Gaidry Well No. 1
Field: Houma
County: Terrebonne Parish
Purchaser: United Gas Pipeline Company
Volume: 900 MMcf.

FERC Control Number: JD79-3508
API Well Number: 17-109-22103
Section of NGPA: 103
Operator: Union Oil Company of California
Well Name: Calvert & Todd Well No. 10
Field: Houma
County: Terrebonne Parish
Purchaser: United Gas Pipe Line Company
Volume: 900 MMcf.

FERC Control Number: JD79-3509
API Well Number: 17-027-20472
Section of NGPA: 103
Operator: Tideway Oil Programs, Inc.
Well Name: Nolan Shaw No. 2
Field: Leatherman Creek
County: Claiborne
Purchaser: Louisiana Gas Intrastate, Inc.
Volume: 100 MMcf.

FERC Control Number: JD79-3510
API Well Number: 17-027-20154
Section of NGPA: 108
Operator: Hassie Hunt Exploration Company
Well Name: H'ville B. Sua Deason #1 Serial No. 13449
Field: Lisbon
County: Claiborne
Purchaser: Texas Eastern Treansmission Corp.
Volume: 1.4* MMcf.

FERC Control Number: JD79-3511
API Well Number: 17-101-21033
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 340 West Cote Blanche Bay #720
Field: West Cote Blanche Bay
County: St. Mary Parish
Purchaser: Michigan Wisconsin Pipe Line Co.
Volume: 870 MMcf.

FERC Control Number: JD79-3512
API Well Number: 17-045-20545
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 334 Vermilion Bay #B-72
Field: Vermilion Bay
County: Iberia Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 548 MMcf.

FERC Control Number: JD79-3513
API Well Number: 17-045-20539
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 334 Vermilion Bay #B-71
Field: Vermilion Bay
County: Iberia Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 438 MMcf.

FERC Control Number: JD79-3514
API Well Number: 17-045-20486
Section of NGPA: 103
Operator: Texaco Inc.
Well Name: SL 334 Vermilion Bay #B-66
Field: Vermilion Bay
County: Iberia Parish
Purchaser: Columbia Gas Transmission Corp.
Volume: 156 MMcf.

FERC Control Number: JD79-3515
API Well Number: 17057214230000
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Delata Securities Co. Inc. Well #122
Field: Bully Camp
County: Lafourche
Purchaser: Tennessee Gas Pipeline Co.
Volume: 54 MMcf.

FERC Control Number: JD79-3516
API Well Number: 17-111-01681
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Montgomery B #68
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79-3517
API Well Number: 17-111-01680
Section of NGPA: 108
Operator: IMC Exploration Company

Well Name: Montgomer B #71
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79-3518
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Moore B #2
Field: Monroe Gas Field
County: Ouachita
Purchaser: Mid Louisiana Gas Company
Volume: 7.1 MMcf.

FERC Control Number: JD79-3519
API Well Number: 17-073-00021
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Moore B #4
Field: Monroe Gas Field
County: Ouachita
Purchaser: Mid Louisiana Gas Company
Volume: 3.2 MMcf.

FERC Control Number: JD79-3520
API Well Number: 17-073-00046
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Moore B #5
Field: Monroe Gas Field
County: Ouachita
Purchaser: Mid Louisiana Gas Company
Volume: 4.7 MMcf.

FERC Control Number: JD79-3521
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Morris #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79-3522
API Well Number: 17-111-01409
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Navarro #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.3 MMcf.

FERC Control Number: JD79-3523
API Well Number: 17-067-20026
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F-15
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 16.2 MMcf.

FERC Control Number: JD79-3524
API Well Number: 17-067-20049
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F-43
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 8.2 MMcf.

FERC Control Number: JD79-3525
API Well Number: 17-067-20106
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F-46
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 9.6 MMcf.

FERC Control Number: JD79-3526
API Well Number: 17-067-20119
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F-52
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79-3527
API Well Number: 1706720118
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. B. Miles #F-53
Field: Monroe Gas Field
County: Morehouse
Purchaser: Mid Louisiana Gas Company
Volume: 7.1 MMcf.

FERC Control Number: JD79-3528
API Well Number: 171101811
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Montgomery #58
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 15.6 MMcf.

FERC Control Number: JD79-3529
API Well Number: 1711101809
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Montgomery #61
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-3530
API Well Number: 17031203500000
Section of NGPA: 108
Operator: E. Conway Butts, Inc.
Well Name: P SU BB; Ramsey Unit No. 1
Field: Belle Bower
County: De Soto
Purchaser: Arkansas Louisiana Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79-3531
API Well Number: 17031203560000
Section of NGPA: 108
Operator: E. Conway Butts, Inc.
Well Name: P Suy; M W Wells No. 1
Field: Belle Bower
County: De Soto
Purchaser: Arkansas Louisiana Gas Company
Volume: 3.2 MMcf.

FERC Control Number: JD79-3532
API Well Number: 17031203800000
Section of NGPA: 108
Operator: E. Conway Butts, Inc.
Well Name: P SU GG; Ramsey No. 2
Field: Belle Bower
County: De Soto
Purchaser: Arkansas Louisiana Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79-3533
API Well Number: 1703120724
Section of NGPA: 103
Operator: Sawyer Drilling & Service, Inc.
Well Name: Hoss RA SU 15; Means #1
Field: Holly
County: De Soto
Purchaser: Louisiana Intrastate Gas Corp.
Volume: 200 MMcf.

FERC Control Number: JD79-3534
API Well Number: 1703120759
Section of NGPA: 103
Operator: Sawyer Drilling & Service, Inc.
Well Name: Hoss RA SU 35; Brummett #1
Field: Holly
County: De Soto
Purchaser: Louisiana Intrastate Gas Corp.
Volume: 200 MMcf.

FERC Control Number: JD79-3535
API Well Number: 1703120772
Section of NGPA: 103
Operator: Sawyer Drilling & Service, Inc.
Well Name: Hoss RA SU 6; Robert T. Means #1
Field: Holly
County: De Soto
Purchaser: Louisiana Intrastate Gas Corp.
Volume: 140 MMcf.

FERC Control Number: JD79-3536
API Well Number: 1711920075
Section of NGPA: 108
Operator: Franks & Petrofunds, Inc.
Well Name: Hoss A SU G; LA. Meth. Orph. 1-D
Field: Sibley
County: Webster
Purchaser: United Gas Pipeline Co.
Volume: 6 MMcf.

FERC Control Number: JD79-3537
API Well Number: 1701320055
Section of NGPA: 108
Operator: Franks & Petrofunds, Inc.
Well Name: FL SU J; Williams Est. 1-D
Field: Driscoll
County: Bienville
Purchaser: United Gas Pipeline Company
Volume: 8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-15698 Filed 5-18-79; 8:45 am]
[BILLING CODE 6450-01-M

[Docket No. RP75-79]

Lehigh Portland Cement Co. and Florida Gas Transmission Co.; Extension of Time

May 11, 1979.

On May 2, 1979, Gardinier, Inc. filed a motion to extend the briefing date set by Commission order of April 24, 1979 in this proceeding. The motion states that the reason for the request is the illness of Gardinier's principal counsel.

Upon consideration, notice is hereby given that a extension of time for filing briefs is granted to and including June 5, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15682 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Midlands Gas Corp. et. al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

The Montana Board of Oil and Gas Conservation

FERC Control Number: JD79-4160
API Well Number: 25-071-21591
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1261 1-1261 Scott
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 120 MMcf.

FERC Control Number: JD79-4161
API Well Number: 25-071-21490
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1370 1-13 Rex Burwell
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf.

FERC Control Number: JD79-4162
API Well Number: 25-005-21780
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Roberts 15-14-31-19
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 14.4 MMcf.

FERC Control Number: JD79-4163
API Well Number: 25-005-21918
Section of NGPA: 103
Operator: Tricentrol United States, Inc.
Well Name: Blackwood 34-9-31-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 187.7 MMcf.

FERC Control Number: JD79-4164
API Well Number: 25-071-21590
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1060 No. 1 Hellie
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 12 MMcf.

FERC Control Number: JD79-4165
API Well Number: 25-071-21539
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0270 1-2 Brown
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 19 MMcf.

FERC Control Number: JD79-4166
API Well Number: 25-071-21563
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0161 No. 1-1 F. Anderson
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 84 MMcf.

FERC Control Number: JD79-4167
API Well Number: 25-083-21224
Section of NGPA: 103
Operator: UV Industries, Inc.
Well Name: Obergfell 1-34
Field: Southeast Putnam
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 86.768 MMcf.

FERC Control Number: JD79-4168
API Well Number: 25-071-21538
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2460 No. 1-24 White
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 36 MMcf.

FERC Control Number: JD79-4169
API Well Number: 25-071-21586
Section of NGPA: 108
Operator: Midlands Gas Corporation
Well Name: 2271 1-22 Lewis Miller
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 8 MMcf.

FERC Control Number: JD79-4170
API Well Number: 25-083-21239
Section of NGPA: 102
Operator: UV Industries, Inc.
Well Name: Obergfell 2-23
Field: Southeast Putnam
County: Richland
Purchaser: Montana Dakota Utilities Company
Volume: 9.250 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15692 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-358]

Minnesota Power & Light Co.; Cancellation

May 15, 1979.

Take notice that Minnesota Power & Light Company (MP&L) on March 4, 1979, tendered for filing a notice of cancellation of Rate Schedule FPC No. 29, applicable to service being rendered to Itasca-Montrap Cooperative Electrical Association. MP&L proposes an effective date of June 18, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15683 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RM79-3]

Natural Gas Policy Act of 1978; Receipt of Report of Determination Process

May 15, 1979.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency and Date

Alabama State Oil and Gas Board—November 30, 1978
State of Alaska, Oil and Gas Conservation Commission—December 11, 1978
State of Arizona, Oil and Gas Conservation Commission—December 14, 1978
Arkansas Oil and Gas Commission—February 12, 1979
State of California, Department of Conservation, Division of Oil and Gas—December 4, 1978
State of Colorado, Department of Natural Resources—December 5, 1978
(Supplemental Report)—April 4, 1979
(Revised Supplemental Report)—April 18, 1979
State of Florida, Department of Natural Resources—January 3, 1979
State of Illinois, Department of Mines and Minerals, Oil and Gas Division—January 5, 1979
State of Indiana, Department of Natural Resources—December 26, 1978
(Supplemental Report)—March 26, 1979
Kansas State Corporation Commission, Conservation Division—November 30, 1978
Commonwealth of Kentucky, Department of Mines and Minerals, Division of Oil and Gas Conservation—February 5, 1979
State of Louisiana, Department of Conservation—November 29, 1978
State of Michigan, Department of Natural Resources, Geological Survey Division—December 1, 1978
State Oil and Gas Board of Mississippi—November 30, 1978
State of Montana, Department of Natural Resources and Conservation—January 29, 1979
State of Nebraska Oil and Gas Conservation Commission—December 15, 1978
State of New Mexico, Energy and Mineral Department, Oil Conservation Division—November 19, 1978
New York State, Department of Environmental Conservation—February 23, 1979
(Supplemental Report)—May 2, 1979
State of North Dakota, Geological Survey—January 4, 1979
State of Ohio, Department of Natural Resources, Division of Oil and Gas—December 6, 1978
State of Oklahoma, Corporation Commission—March 29, 1979
Osage Agency, Osage County, Oklahoma, Bureau of Indian Affairs—April 2, 1979
State of Pennsylvania, Department of Environmental Resources, Division of Oil and Gas—December 26, 1978
State of South Dakota, Department of Natural Resources Development—March 14, 1979
State of Tennessee, Oil and Gas Board—December 19, 1978
Railroad Commission of Texas—November 30, 1978
United States Department of Interior, Geological Survey—January 19, 1979
State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining—January 30, 1979
Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries—December 4, 1978
West Virginia Department of Mines, Oil and Gas Division—November 30, 1978
State of Wyoming, Office of Oil and Gas Conservation Commission—December 4, 1978

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, DC. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15684 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-20273 and RP 66-7 et al.]

The Ohio Fuel Gas Co., et al.; Amendment to Petition

May 15, 1979.

In the matter of The Ohio Fuel Gas Co., Docket Nos. G-20273 and RP66-7; Texas Gas Transmission Corp. Docket Nos. G-18886, RP61-15 and RP67-10; Panhandle Eastern Pipe Line Co., Docket Nos. RP68-15 and RP69-3; Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Docket Nos. G-11980, G-17166 and G-19983.

Take notice that on April 16, 1979, Columbia Gas Transmission Corporation (Columbia) filed an amendment to its July 16, 1976 petition for an order releasing refunds held in escrow.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission,, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must fle a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15685 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-48]

Peoples Natural Gas Division of Northern Natural Gas Co.; Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

May 15, 1979.

Take notice that on April 27, 1979, Peoples Natural Gas Division of Northern Natural Gas Company (Peoples Division) tendered for filing as part of its FPC Gas Tariff, Original Volume No. 4, the following tariff sheet:

Twenty-third Revised Sheet No. 3a

Twenty-third Revised Sheet No. 3a is filed pursuant to Peoples Division's Purchased Gas Adjustment provision of its FPC Gas Tariff, Original Volume No. 4. This change in rates reflects the increase in Peoples Division's average estimated cost of purchased gas, pursuant to Paragraph 19.3(b) of its FPC Gas Tariff Original Volume No. 4.

Copies of the filing were served upon the Gas Utility Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15686 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-3549
API Well Number: 47-041-1169
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #5
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3550
API Well Number: 47-041-0977
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #4
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3551
API Well Number: 47-041-0973
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #3
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3552
API Well Number: 47-041-0917
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #2
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3553
API Well Number: 47-041-0046
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: A. L. Griggs #1
Field: Freeman's Creek
County: Lewis
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.2 MMcf.

FERC Control Number: JD79-3554
API Well Number: 47-017-1329
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Thurman Spurgeon #7
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3555
API Well Number: 47-017-1283
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Thurman Spurgeon #3
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3556
API Well Number: 47-017-2271
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: W. M. Stout #14
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.9 MMcf.

FERC Control Number: JD79-3557
API Well Number: 47-033-1405
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Jehu Shahan No. 1
Field: Ten Mile
County: Harrison
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.0 MMcf.

FERC Control Number: JD79-3558
API Well Number: 47-033-1547
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Dorothy Young #1
Field: Ten Mile
County: Harrison
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.8 MMcf.

FERC Control Number: JD79-3559
API Well Number: 47-085-2249
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: S. C. Collins #1
Field: Murphy District
County: Ritchie
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.5 MMcf.

FERC Control Number: JD79-3560
API Well Number: 47-021-2015
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Porter Maxwell #10
Field: Troy
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.8 MMcf.

FERC Control Number: JD79-3561
API Well Number: 47-085-3440
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Z. Flanagan #20
Field: Union
County: Ritchie
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.1 MMcf.

FERC Control Number: JD79-3562
API Well Number: 47-085-3290
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Z. Flanagan #19
Field: Union
County: Ritchie
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.1 MMcf.

FERC Control Number: JD79-3563
API Well Number: 47-013-1457
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Annie C. Boyles #2
Field: Lee
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 3.2 MMcf.

FERC Control Number: JD79-3564
API Well Number: 47-013-0555
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Sharp, J. S. #5
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

FERC Control Number: JD79-3565
API Well Number: 47-017-1298
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: S. L. Chapman #2
Field: Cove Dod
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.6 MMcf.

The applications for determination in these proceedings together with a copy or discription of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15700 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Pennzoil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979

On April 24, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79–4156
API Well Number: 47–039–1005
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 12
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 3.6 MMcf.

FERC Control Number: JD79–4157
API Well Number: 47–039–1004
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 11
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–4158
API Well Number: 47–039–0955
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 5
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 6.0 MMcf.

FERC Control Number: JD79–4159
API Well Number: 47–039–0999
Section of NGPA: 108
Operator: Penzoil Company
Well Name: Black Band Fuel No. 9
Field: Washington
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 14.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15702 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–356]

Southern California Edison Co.; Tariff Change

May 15, 1979.

The filing Company submits the following: Take notice that Southern California Edison Company (Edison) on May 7, 1979, tendered for filing a change of transmission service charges under the provisions of Edison's agreement with the Arizona Power Pooling Association, Inc. as embodied in Rate Schedule FERC No. 93.

The change of rate for transmission service charges is as follow:

	Current rate (8.98 percent rate of return)	New rate (9.6 percent rate of return)	Increase
(a)	$0.0900/kW-mo	$0.0940/kW-mo	$0.0040/kW-mo.
(b)	$0.1161/kW-mo	$0.1204/kW-mo	$0.0043/kW-mo.

(a) From Arizona-Nevada border to Eldorado Substation.
(b) From Eldorado Substation to Mead Substation.

Said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison the charges for transmission services shall be adjusted based on said new rate of return. Said new rate of return of 9.6% was authorized in CPUC Decision No. 89711, effective January 1, 1979.

Copies of this filing were served upon the Arizona Power Pooling Association, Inc. and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–15687 Filed 5–18–79; 8:45 am]

BILLING CODE 6450–01–M

Pennzoil Co. et.al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79–3608
API Well Number: 47–013–2773
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Henry Brannon #1
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

FERC Control Number: JD79–3609
API Well Number: 47–017–2268
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: W. M. Stout #1
Field: New Milton
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.9 MMcf.

FERC Control Number: JD79–3610
API Well Number: 47–021–3366
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Porter Maxwell #6
Field: Troy
County: Gilmer
Purchaser: Consolidated Gas Supply Corp.
Volume: 2.8 MMcf.

FERC Control Number: JD79–3611
API Well Number: 47–017–1293
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: S. L. Chapman #1
Field: Cove
County: Doddridge
Purchaser: Consolidated Gas Supply Corp.
Volume: 4.6 MMcf.

FERC Control Number: JD79-3612
API Well Number: 47-013-1336
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Robinson, H. L. #1
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 8.6 MMcf.

FERC Control Number: JD79-3613
API Well Number: 47-013-0695
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: F. E. Rothlisberger #6
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.5 MMcf.

FERC Control Number: JD79-3614
API Well Number: 47-013-0601
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Sharp, J. S. #7
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

FERC Control Number: JD79-3615
API Well Number: 47-013-0495
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Henry Brannon #4
Field: Sherman District
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 1.6 MMcf.

FERC Control Number: JD79-3616
API Well Number: 47-013-0457
Section of NGPA: 108
Operator: Pennzoil Company
Well Name: Sharp, J. S. #3
Field: Sherman
County: Calhoun
Purchaser: Consolidated Gas Supply Corp.
Volume: 0.8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference to FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15701 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Phillips Petroleum Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

May 14, 1979.

On April 24, 1979, the Federal Energy Regulatory Commission received notice of a determination pursuant to 18 CFR 274.104 of the Natural Gas Policy Act of 1978 applicable to:

New Mexico Oil Conservation Division

FERC Control Number: JD79-5657
API Well Number: 30-025-03996
Section: 108
Operator: Phillips Petroleum Company
Well Name: Monument No. 1
Field: Eumont Queen Yates—7 Rivers
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 1.1 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15694 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-361]

Southern California Edison Co.; Tariff Change

May 15, 1979.

The filing Company submits the following: Take notice that Southern California Edison Company (Edison) on May 8, 1979, tendered for filing a change of monthly carrying charges under the provisions of Edison's agreement with the Arizona Power Pooling Association, Inc. as embodied in Rate Schedule FERC No. 92.

The adjustment of monthly carrying charges is as follows:

Current rate (8.98% rate of return)	New rate (9.6% rate of return)	Increase
$2,133/month.....	$2,361/month	$228/month.

Said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison the monthly carrying charge shall be adjusted based on said new rate of return. Said new rate of return of 9.6% was authorized in CPUC Decision No. 89711, effective January 1, 1979.

Copies of this filing were served upon the other interested Parties and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15688 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP77-141, et al.]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Motion for Waiver of Tariff Provisions

May 15, 1979.

Take notice that on May 9, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) filed a motion requesting waiver of Section 2.4 of its curtailment plan in Article XXIV of the General Terms and Conditions in Ninth Revised Volume No. 1 of its FERC Gas Tariff. Tennessee states that the requested waiver would permit it to increase the entitlements of its Small Customers to reflect 100 percent of their base period requirements in priority categories 0 through 9 whenever it has similarly increased the level of entitlements of the other customers on its system to reflect 100 percent of their base period requirements in priority categories 0 through 9.

Tennessee states that Section 2.4 precludes it from increasing the

entitlements of its small customers above their base period requirements in priority categories 0, 1, and 2 even though it has established entitlements for its other customers equal to their full base period requirements in priority categories 0 through 9. Tennessee states that it has increased entitlements for its other customers for the period May—October, 1979 to reflect 100% of base period requirements in categories 0 through 9 and the requested waiver will not result in the reduction of the entitlements of any other customers. Tennessee requests the waiver be effective on May 1, 1979, the date it increased the entitlement of its other customers, and further requests that the waiver be granted *pendente lite*.

Due to the nature of the requested action the Commission has determined that a shortened period for comments is appropriate. Accordingly, any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party will file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15689 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-87 and RP79-5]

Texas Eastern Transmission Corp.; Informal Settlement Conference

May 15, 1979.

Take notice that the informal settlement conference in this proceeding will reconvene on Tuesday, May 29 at 2:00 P.M. The conference will be held at the Civil Aeronautics Board, 1875 Connecticut Avenue in Hearing Room 1003-A.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15690 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

Texas Oil and Gas Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 14, 1979.

On May 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas, Oil and Gas Division

FERC Control Number: JD79-3717
API Well Number: 42-481-31483
Section of NGPA: 103
Operator: Texas Oil and Gas Corporation
Well Name: Reynolds Well No. 3
Field: Bonus
County: Wharton County
Purchaser: Columbia Gas Transmission Corp.
Volume: 150 MMcf.

FERC Control Number: JD79-3718
API Well Number: 42-499-00000
Section of NGPA: 103
Operator: Gamblin G. H. No.
Well Name: Crystal Oil Company 1
Field: Winnsboro
County: Wood
Purchaser: Lone Star Gas Company
Volume: 24,000 MMcf.

FERC Control Number: JD79-3719
API Well Number:
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Vira Harrell No. 12
Field: Saxet
County: Nueces
Purchaser: Delhi Gas Pipeline Corp.
Volume: 42 MMcf.

FERC Control Number: JD79-3720
API Well Number: 42-355-31238
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Isensee T. H. No. 12
Field: Saxet
County: Nueces
Purchaser: Delhi Gas Pipeline Corp.
Volume: 60 MMcf.

FERC Control Number: JD79-3721
API Well Number: 42-365-30784
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Pippen Estate 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: .8 MMcf.

FERC Control Number: JD79-3722
API Well Number: 42-365-30783
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Pippen Estate 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: .8 MMcf.

FERC Control Number: JD79-3723
API Well Number: 42-365-30780
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Pippen Estate No. 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 8,000 MMcf.

FERC Control Number: JD79-3724
API Well Number: 42-365-30788
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Myers 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3725
API Well Number: 42-365-30790
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Myers 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3726
API Well Number: 42-365-30791
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Myers 1
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 19,000 MMcf.

FERC Control Number: JD79-3627
API Well Number: 42-365-30781
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Lizzie Griffin 5
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28,000 MMcf.

FERC Control Number: JD79-3728
API Well Number: 42-365-30776
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Lizzie Griffin 3
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28 MMcf.

FERC Control Number: JD79-3729
API Well Number: 42-365-30717
Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Lizzie Griffin 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 28,000 MMcf.

FERC Control Number: JD79-3730
API Well Number: 42-365-30662

Section of NGPA: 103
Well Name: Crystal Oil Company
Operator: Holt 2
Field: Panola
County: Panola
Purchaser: United Gas Pipeline Co.
Volume: 4,000 MMcf.

FERC Control Number: JD79-3731
API Well Number: 42-285-31281
Section of NGPA: 102
Well Name: Texas Oil and Gas Corp.
Operator: Stovall "O" Well No. 1
Field: Speaks, S. W.
County: Lavaca County
Purchaser: Texas Eastern Transmission Corp.
Volume: 145 MMcf.

FERC Control Number: JD79-3732
API Well Number: 42-261-30398
Section of NGPA: 102
Well Name: Texas Oil and Gas Corporation
Operator: Erck Well No. 5
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 183 MMcf.

FERC Control Number: JD79-3733
API Well Number: 42-261-30413
Section of NGPA: 102
Well Name: Texas Oil and Gas Corporation
Operator: Erck Well No. 6
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 365 MMcf.

FERC Control Number: JD79-3734
API Well Number: 42-261-30397
Section of NGPA: 102
Well Name: Texas Oil and Gas Corp.
Operator: Erck Well No. 4
Field: McGill
County: Kenedy County
Purchaser: Florida Gas Transmission Co.
Volume: 146 MMcf.

FERC Control Number: JD79-3735
API Well Number: 42-409-31215
Section of NGPA: 103
Well Name: Texas Oil and Gas Corporation
Operator: Griffith and Associates
Field: Papalote
County: Bee County
Purchaser: Transcontinental Gas Pipeline Corp.
Volume: 110 MMcf.

FERC Control Number: JD79-3736
API Well Number: 42-301-30072
Section of NGPA: 107
Well Name: Exxon Corporation
Operator: Linebery Gas Unit 1 Well 2
Field: Linebery
County: Loving County
Purchaser: Northern Natural Gas Company
Volume: 183 MMcf.

FERC Control Number: JD79-3737
API Well Number: 42-261-30239
Section of NGPA: 102
Well Name: Exxon Corporation
Operator: John G. Kenedy, Jr., "E" Well No. 22-D
Field: El Paistle
County: Kenedy
Purchaser: Natural Gas Pipeline Co.
Volume: 146 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 5, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15695 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-357

Vermont Electric Power Co., Inc.; Rate Schedule Filing

May 15, 1979.

The filing Company submits the following: Take notice that on May 7, 1979, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a Rate Schedule containing a Bulk Power Purchase Agreement between VELCO and Long Island Lighting Company (LILCO) of Hicksville, New York, dated as of February 23, 1979.

VELCO states that the service to be rendered under this Rate Schedule is the provision of 40,000 kw capacity and related energy from the Vermont Yankee Nuclear Electric Generating Station, at a monthly rate estimated to be $243,000.00 per month. Service from VELCO to LILCO under the Rate Schedule will consist of approximately 20,440,000 kilowatt-hours/month. Charges for this power will be at VELCO's cost. Therefore, VELCO states that there will be no change in the overall rate of return of VELCO.

VELCO states that service under this Rate Schedule commenced on April 1, 1979, and will terminate on November 30, 1979. An effective date of April 1, 1979, and waiver of the requirements of Section 35.11 of the Commission's Regulations are requested.

Copies of the filing were served upon the Long Island Lighting Company and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-15691 Filed 5-18-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP—180295; FRL 1230-5]

Indiana State Chemist and Seed Commissioner; Issuance of Specific Exemption To Use Aldicarb on Mint To Control Lesion Nematode

AGENCY: Environmental Protection Agency, (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Indiana State Chemist and Seed Commissioner (hereafter referred to as the "Applicant") to use aldicarb on up to 1,500 acres of spearmint and peppermint for the control of lesion nematode in seven counties in Indiana. The specific exemption expires on May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, there has been a steady build-up of the lesion nematode in commercial plantings of peppermint (*Mentha piperita*) and two kinds of spearment (*M. spicata* and *M. cardiaca*) in northern Indiana. The mints are vegetatively propagated from dormant stolons dug by the grower from existing plantings. This practice has

been a major factor in the dissemination of the nematode since it is readily spread from field to field with contaminated planting stock. Once an area is infested, a grower has no means of preventing further spread. The build-up in established fields has been rapid and the Applicant reports that fields which would have been expected to be in production for periods of three to five years or longer do not support profitable production after one or two years.

The causal organism is the lesion nematode (*Pratylenchus penetrans*). Damage is apparent as soon as the plants emerge in the spring with stunted, discolored plants, thin stands, and poor growth. Cultural practices such as crop rotation are of little value because of the relatively broad host range of the nematode. Crops rotated to mints include onion, potatoes, and corn, all of which are hosts of the nematode. Annual planting is of little value since planting stock is dug from existing fields. There are no sources of nematode-free planting stock, the Applicant reports. The Applicant states that there are currently no pesticides registered for use on mints for control of the lesion nematode under the conditions described.

The Applicant proposed a single application in the counties of Jasper, Kosciusko, Marshall, Porter, Pulaski, St. Joseph and Starke in northern Indiana. The product Temik 15% G, which contains the active ingredient aldicarb, will be used.

Without the use of aldicarb, the Applicant estimates direct losses at $90,000. In addition, indirect losses due to under-use or discontinued use of equipment are expected.

EPA has determined that the residue levels of aldicarb in mint foliage should not exceed 1.5 parts per million (ppm), and in mint oil 75 ppm from this use. These levels have been judged to be adequate to protect the public health.

Since aldicarb is highly toxic to mammals and birds, and their exposure to aldicarb from this use is likely, EPA has imposed a number of restrictions. If these restrictions are followed, no unreasonable adverse effect on the environment is expected.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of lesion nematode has occurred or is likely to occur; (b) there are no effective pesticides currently registered and available for this use in Indiana; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the lesion nematode is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 30, 1979, in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The registered product Temik 15% Granular Aldicarb (EPA Reg. No. 1016–78) will be used;

2. Application will be restricted to 1,500 acres located in the counties named above;

3. Aldicarb will be applied once at the rate of three pounds per acre (twenty pounds product);

4. Application shall be by ground equipment only with the pesticide being tilled into the soil to a depth of four to six inches;

5. A 120 day pre-harvest interval shall be observed;

6. Applications will be made by State-certified pesticide applicators;

7. All applicable precautions on the label regarding human and wildlife safety must be observed;

8. Deep disking of granules in turn areas and row ends as well as spill areas must take place;

9. Personnel from the Indiana Department of Natural Resources are to conduct pretreatment on-site inspections of designated treatment areas to ensure that large numbers of non-target wildlife (that is, migratory waterfowl and other avian species) are not utilizing these areas;

10. These same personnel are to conduct a post-treatment (one or two days after treatment) census to determine non-target utilization and possible adverse effects;

11. In the event of high non-target mortality:

a. All planned treatments are to be stopped immediately;

b. All dead or dying wildlife should be collected and necropsied, where possible, in order to check for the presence of aldicarb granules or residues;

c. Treated fields are to be either irrigated or deep disked to prevent further exposure to wildlife; and

d. The EPA shall be notified immediately;

12. The accompanying labeling must include the following statement: "This pesticide is extremely toxic to wildlife. Use with care when applying to areas frequented by wildlife. Treated granules exposed on soil surface may be hazardous to birds and other wildlife. Cover or incorporate granules which are spilled during loading. Incorporate granules visible on the soil surface in turn areas. Keep out of lakes, streams, and ponds. Do not contaminate water by cleaning of equipment or disposal of wastes."

13. Mint foliage and mint oil from mint treated according to the above provisions should not exceed residue levels of aldicarb of 1.5 ppm in foliage and 75 ppm in oil. Mint foliage and mint oil within these residue levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

14. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met, and must submit a report summarizing the results of this program by August 30, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C.).)

Dated: May 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-15790 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180290; FRL 1230-6]

Minnesota Department of Agriculture; Issuance of Specific Exemption To Use Asulox To Control Wild Oats, Wild Buckwheat, and Foxtails

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use Asulox on 26,720 acres of flax in five counties in northwest Minnesota to control wild oats, wild buckwheat, and foxtails. This exemption ends on August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851. It is suggested that interested persons telephone before visiting the EPA Headquarters so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Flax does not compete well with weeds; weed infestations result in poor stands

of flax by reducing germination and competing with the developing flax plants. Wild oats and foxtails are common weed pests of flax. According to the Applicant, these weeds are present in all areas where flax is produced in Minnesota, and due to heavy snowfall and rain this past winter, heavy weed growth is expected.

Eptam, Avadex, dalapon, Carbyne, MCP Amine and Bromoxynil are registered for selective weed control in flax. According to the Applicant, the registered alternative pesticides are either not effective or are not acceptable control methods for wild oats, wild buckwheat and foxtails for this season's wet conditions.

Kittson, Marshall, Pennington, Roseau, and Lake of the Woods Counties, where flax is a major crop, grow from 75,000 to 95,000 acres of flax annually. A loss of 3.24 to 4.86 million dollars in agricultural income may be incurred, the Applicant claimed, if the exemption was not granted.

The Applicant proposed to use an asulam formulation, Asulox, EPA Reg. No. 359–662, in a single post-emergence application when wild oats are in the three- to four-leaf stage. Applications will be made by both private and commercial State-certified applicators using both ground and air equipment in the five counties named above. The Applicant claimed that studies conducted in Minnesota demonstrated that Asulox gave acceptable control of wild oats and suppressed the growth of foxtails and wild buckwheat.

EPA has determined that the available data are adequate to support the proposed use of Asulox on flax. Residues of the active ingredient (a.i.) asulam are not likely to exceed 2.0 parts per million (ppm) in flax seed and its fractions or 2.5 ppm in flax straw. EPA has deemed these levels to be adequate to protect the public health. An appropriate crop rotation restriction has been imposed. No unreasonable adverse effect on the environment from this use of asulam is anticipated.

After reviewing the application and other available information, EPA has determined that (a) an outbreak of wild oats, wild buckwheat, and foxtails in flax has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control these weeds in flax in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A single post-emergence application of Asulox (EPA Reg. No. 359–662) is authorized;

2. Application shall be made by air and/or ground equipment at a rate not to exceed 1.25 pounds a.i. per acre;

3. A maximum of 33,400 pounds a.i. may be applied to 26,720 acres of flax in the five counties mentioned above;

4. Applications will be made when wild oats are in the 3–4 leaf stage;

5. All applications shall be made by State-certified private and commercial applicators;

6. Precautions shall be taken to avoid or minimize spray drift from target area. Application may not be made when weather conditions favor spray drift;

7. Residue levels of asulam are not expected to exceed 2.0 ppm in flaxseed and its fractions (meal, oilseed cake, refined oil, and soapstock) and 2.5 ppm in the flax straw. Any resulting residues in meat, milk, poultry and eggs will be well below detectable levels (0.05 ppm in meat, 0.025 ppm in milk, and 0.1 ppm in poultry tissues and eggs). The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Crops other than small grains may not be planted in the treated area within 12 months of application. Small grain crops may not be planted within ten months of application. Root crops may not be planted in the treated area within 18 months of application. Fodder from grain crops rotated to treated flax fields may not be grazed or cut for forage;

9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

10. Application of Asulox to flax may result in crop injury and reduction in yield under stress conditions or if the herbicide is applied at stages of growth other than those specified;

11. The Applicant will provide the EPA Region V office, Pesticides Branch, with a list of distributors for Asulox. The distributors will be required to maintain point of sale records;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of Asulox in connection with this exemption; and

13. The Applicant is responsible for ensuring that all of the provisions of the specific exemption are met and must submit a report summarizing the results of this program by January 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: May 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-15789 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180288; FRL 1230-4]

North Dakota Department of Agriculture; Issuance of Specific Exemption To Use Diclofop To Control Foxtail Grasses and Wild Oats

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") to use diclofop to control foxtail grasses and wild oats in 200,000 acres of hard red spring wheat, durum wheat, and barley in North Dakota. This exemption ends on July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E–315, Washington, D.C. 20460, Telephone: 202/755–4851. It is suggested that interested persons telephone before visiting EPA Headquarters so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, foxtail grasses (*Setaria viridis* and *S. lutescens*) and wild oats (*Avena fatua*) are widespread weed problems in North Dakota, causing reduced yield of wheat and barley by their competition. EPA issued a specific exemption to North Dakota on March 31, 1979 for the use of propanil (Stam F–34) to control foxtail grasses in hard red spring wheat. The applicant did not request use of propanil on durum wheat and barley since field studies indicate significant yield reduction with durum wheat, and data are not available to evaluate the use of propanil on barley. Propanil is not known to be effective as a chemical control for wild oats. It appears that pre-emergence materials have lost much of their practicality, leaving wheat and

barley growers without any pesticidal means of controlling weeds. Hand weeding appears to be a thing of the past because of high labor costs and the large acreage involved in modern farming.

Currently, there are no herbicides (pre- or post-emergence) registered for use on barley to control foxtail. The Applicant claimed that losses could be from $624,000 to $936,000 on the 60,000 acres proposed for treatment. Another problem associated with foxtail infestations is the high moisture content of their seeds. When mixed with the barley grain, problems with mold and mildew damage to the grain during storage can and does occur, according to the Applicant.

There are currently no registered herbicides for use on durum wheat as a post-emergence treatment to control foxtails and wild oats. Treflan (trifluralin) is registered for use on wheat as a soil incorporated pre-emergence treatment. The Applicant, however, has stated that this herbicide causes excessive drying of the soil and can cause excessive wind erosion because of the double harrowing. The Applicant estimates that losses of up to $1.2 million could be incurred on the 50,000 aces of durum wheat proposed for treatment due to foxtails, and the presence of wild oats could increase losses up to fifty percent.

Similarly, there are no registered herbicides for use as a post-emergence treatment to control wild oats in hard red spring wheat. The Applicant estimates losses of up to $4.86 million due to wild oats on the 90,000 acres proposed for treatment. In addition, harvested wheat grain contaminated with wild oats can lower the price of a bushel of wheat by twenty cents or more.

The Applicant proposed to use Hoelon 3 EC, which contains the active ingredient (a.i.) diclofop, in a single post-emergence application at a dosage rate of 0.75 to 1.25 pounds a.i. per acre. Diclofop would be applied to wild oats when they are in the 1–3 leaf stage and to foxtails when they are two inches or less in height.

EPA has determined that the proposed use will not result in residues of diclofop and its metabolites in excess of 0.1 part per million (ppm). This level is judged to be adequate to protect the public health. Applicators will be required to wear protective clothing and respirators.

A restriction of the grazing or foraging of treated land and a prohibition against the use of treated hay or straw as animal feed has been imposed. Since diclofop is acutely toxic to fish, EPA has imposed a restrictive which would prohibit the application of diclofop within 100 feet of any aquatic habitat.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of foxtail grasses and wild oats have occurred or are likely to occur; (b) there are no effective pesticides currently registered and available for this use in North Dakota; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if foxtail grasses and wild oats are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 30, 1979 in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The American Hoechst product Hoelon 3EC, which contains the a.i. diclofop (methyl 2-[4-(2,4-dichlorophenoxy)] phenoxy propanate) is authorized at the following dosage rates and methods of application:

a. Ground equipment: two to three and one-half pints of product (0.75 to 1.25 pounds a.i.)/minimum of ten gallons of water/acre/season; and

b. Aerial equipment: two to three and one-half pints of product (0.75 to 1.25 pounds a.i.)/minimum of five gallons of water/acre/season;

2. Up to 175,000 pounds a.i. diclofop are authorized;

3. Applications are to be made only by State-certified commercial and private applicators, and following protective apparel must be sworn during all loading and mixing operations of diclofop and when diclofop is applied:

a. With ground equipment: gloves, waterproof boots, impermeable pants and shirts, goggles, and a cartridge-type respirator; and

b. Aerial pilots are not to be involved in the mixing and loading of diclofop unless the aforementioned equipment is worn. Pilots must wear a cartridge-type respirator when applying diclofop;

4. Applications of diclofop shall be made only when a knowledgeable expert determines that densities of wild oats in barley, durum wheat, or hard red spring wheat, or foxtail grasses in barley or durum wheat are at a level where the use of herbicides registered for use on wheat to control these weeds are not likely to provide sufficient eonomic control of those weeds. These experts may include personnel of the North Dakota Department of Agriculture, Extension Service, or licensed pesticide consultants not engaged in the sale of pesticides;

5. Diclofop is highly toxic to fish. It must be kept out of lakes, streams, ponds, tidal marshes, and estuaries. Direct applications or drift of spray material to water surfaces must be avoided. It may not be applied within one hundred feet of aquatic habitats. Aerial applications may not be made when the wind is above five miles per hour. Care must be taken to prevent contamination of arable land or water by the cleaning of equipment or disposal of waste;

6. Available data indicate that Hoelon is highly toxic to fish and may bio-accumulate in aquatic organisms. Fish from aquatic sites near at least one treated field must be analyzed for residues of Hoelon. The body concentrations should be reported for the whole fish. A minimum of fifteen juveniles should be analyzed before application and fifteen juveniles after application;

7. Fields treated with diclofop must not be grazed or foraged. Likewise, barley and wheat hay or straw must not be fed to lievstock;

8. Barley and wheat grain with residues of diclofop not exceeding 0.1 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, and has been advised of this action; and

9. The Applicant is responsible for ensuring that all the provisions of this specific exemption are met, and must submit a full report summarizing the amounts of diclofop used and the economic benefits derived as a result of the specific exemption to the EPA by January 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C.).

Dated: May 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-15791 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1230-8]

Science Advisory Board, Economic Analysis Committee; Open Meeting

As required by Public Law 92-463, notice is hereby given that a meeting of the Economic Analysis Subcommittee of the Science Advisory Board will be held beginning at 9:00 a.m., June 13, 1979, at the Ramada Inn-Rosslyn, Room

Shenandoah B, and at 9:00 a.m., June 14, 1979, at the Ramada Inn-Rosslyn, the Club Room.

The subcommittee is meeting to review and discuss various aspects of the economic analysis currently being done by the Environmental Protection Agency.

The agenda will include briefings from various program offices regarding the scope and depth of economic analysis presently being done, and comments and questions of subcommittee members. Additional comments from members of the public will also be considered.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Douglas B. Seba, Executive Secretary, or Mr. Barry Gold, Staff Assistant, Economic Analysis Subcommittee (703) 557-7720 by June 5, 1979.

Burton Levy,

Acting Staff Director, Science Advisory Board.

May 16, 1979.

[FR Doc. 79-15788 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1229-8]

Noise Emission Standards for Surface Transportation Equipment Light Vehicles

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Availability of Draft Light Vehicles Noise Emission Test Procedure.

SUMMARY: This document provides notice that the U.S. Environmental Protection Agency is soliciting comments on the adoption of a Light Vehicle Noise Emission Test Procedure.

For further information related to the Light Vehicle Noise Emission Test Procedure contact: Mr. John A. Thomas, Project Officer—Light Vehicles, Standards and Regulations Division (ANR-490), U.S. Environmental Protection Agency, Washington, D.C. 20460, (703) 557-7666.

SUPPLEMENTARY INFORMATION: In considering whether light vehicle regulatory action is requisite to the protection of the public health and welfare from noise from such vehicles, it is necessary to define a suitable method for measuring light vehicle noise emissions. Several methods have been developed and accepted for motor vehicle noise measurement. These methodologies as applicable to automobiles and light trucks are generally considered to be unsuitable for potential regulatory purposes since they are not representative of the way in which these vehicles are typically operated, and hence their noise impact on the community is not appropriately identified. With this realization, the U.S. EPA has embarked on a program to develop and validate a noise measurement procedure which is more consistent with the noise generated by light motor vehicles as they operate in the U.S. urban environment. A general requirement of such a procedure is that it be applicable for all categories of light motor vehicles and be technically and economically reasonable to implement. Although such a procedure could be used for compliance and enforcement of a Federal Government new product noise regulation, we believe that a simpler and thus less expensive test can and should be considered for implementing specific noise regulations.

The light vehicle noise measurement procedure in use in the United States by the automotive industry, and which has been adopted as the measurement standard for several State and local government regulations applicable to noise from light vehicles, is the Society of Automotive Engineers (SAE) J986a procedure. This procedure specifies the measurement of noise for full-throttle vehicle operation at speeds in excess of 30 mph. Full-throttle acceleration is not a typical mode of operation for most light vehicles, and hence is responsible for only a part of the noise impact received by urban communities from light vehicles. Further, vehicle operation surveys show that vehicles which are equally noisy when measured in accordance with the SAE J986a procedure do not necessarily contribute equally to community noise.

The test procedure which we developed is, we believe, representative of typical light vehicle operating conditions in urban communities. While being representative of such vehicle operations, it appears to also be a good indicator of community noise impact resulting from light vehicle operations. Any test procedure which might be adopted for use by the U.S. EPA, and which could serve as the basis for a potential Federal light vehicle noise emission regulation for newly manufactured light vehicles, could also, we believe, be used by State and local authorities, to establish their own noise emission regulations for newly manufactured light vehicles in the event that we do not establish Federally preemptive noise emission regulations for light vehicles. At the present time there has been no determination regarding whether EPA will regulate the noise from light vehicles in any way. The question of whether or not the EPA should regulate light vehicle noise emissions is outside the scope of this notice.

In June 1977, we invited all manufacturers of light vehicles being marketed in the United States, other members of the automotive industry, voluntary standards groups, and several States and cities concerned with light vehicle noise, to meet with us to review and comment on our technical findings relative to a light vehicle test procedure. Light vehicle manufacturers and other interested parties have subsequently tried out the proposed EPA test procedure and submitted informal recommendations to us to improve the procedure. On October 10, 1978, we informed the automotive industry, Society of Automotive Engineers and others of our intent to publish for public comment a revised EPA test procedure. We requested the submission of their comments on all aspects of the test procedure as well as any alternative test procedure which they would recommend be considered by EPA as the test procedure for characterizing community noise impact from light vehicles and which would be used by EPA in the development of any potential future regulatory actions on light vehicles noise.

A number of comments were received to this request. General Motors Corporation, besides submitting comments on the draft EPA procedure, also sumitted an alternative test procedure for consideration by us. It appears that the General Motors recommended procedure, although similar to the EPA procedure in many respects, has sufficient merit to warrant its consideration as an alternative to the EPA procedure. Accordingly, we are soliciting comments on the General Motors, as well as the EPA, test procedure.

The suitability of a test procedure for regulatory compliance and enforcement is tied to the issue of the extensiveness or the amount of testing to be conducted by the manufacturer, or other parties in demonstrating compliance with a regulation or ordinance. Several forms of compliance and enforcement programs related to product manufacturers are already in-use by Federal, State and local agencies. These programs require either total government testing, total manufacturer testing, or shared testing responsibilities between governmental agencies and the manufacturers. Accordingly, we are

soliciting comments on the practicality of the EPA and GM test procedures when viewed form the perspective of different compliance and enforcement approaches for newly manufactured light vehicles, should such a test, with attendant not-to-exceed noise levels, be adopted by State or local ordinances, or through Federal Regulations.

Throughout the development of the draft EPA procedure, governmental, corporate and technical representatives of the European and Japanese motor vehicle community have been invited to and have participated in the EPA program. Additional discussions with these representatives will be held as part of the continuing dialogue on the adoption of a test procedure and its implications to them.

Copies of the Draft EPA Light Vehicle Noise Emission Test Procedure, the comments received earlier by EPA relative to this procedure, and the General Motors Corporation recommended test procedure, may be obtained from: Director, Standards and Regulations Division (ANR–490), Attn: Docket No. 79–02: Light Vehicle Test Procedure, U.S. Environmental Protection Agency, Washington, D.C. 20460, (703) 557–7370.

All comments should be received by the Agency no later than August 13, 1979. Comments should be submitted to: Director, Standards and Regulations Division (ANR–490), Attn: Docket No. 79–02: Light Vehicle Test Procedure, U.S. Environmental Protection Agency, Washington, D.C. 20460.

All comments received will be available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

Dated: May 14, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79–15643 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1229–4; OPP–66054]

Intent To Cancel Registrations of Certain Pesticide Products

Pursuant to section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) firms listed below have requested that the Environmental Protection Agency (EPA) cancel the registrations of certain pesticide products. Such cancellation shall be effective on or before June 20, 1979, unless the registrant or an interested person with the concurrence of the registrant, requests that the registration be continued in effect.

The Agency has determined that the distribution and sale of stocks of these products which were produced on or before the effective date of cancellation would not be inconsistent with the purposes of FIFRA and would not have an unreasonable adverse effect on the environment. Therefore, the distribution and sale of existing stocks of these products shall be permitted until the supply is exhausted or for one year after the effective date of cancellation, whichever occurs earlier, provided that these products shall be used only in a manner consistent with the label and labeling registered with EPA. Production of these products after the effective date of cancellation will be considered a violation of FIFRA.

Requests that the registration of these products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. Any comments filed regarding this notice of intended cancellation will be available for public inspection in the office of the Process Coordination Branch from 8:30 a.m. to 4:00 p.m. Monday through Friday.

The registrants concerned and the products affected by this action are listed below.

Dated: May 11, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

EPA Reg. No.	Product name	Registrant
239–2330	Ortho Fence & Grass Edger	Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804.
1730	Cytox 4310	American Cyanamid Co., Wayne, NJ 07470.
1730–37	Baco D–131	Do
1730–39	Baco R–110	Do.
8790–1	5% Pentachloropheno Solutions	Republic Powdered Metal, 2628 Pearl Road, Medina, OH 44256.

[FR Doc. 79–15658 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1228–1]

Review of Advanced Treatment Projects; Program Guidance

AGENCY: Environmental Protection Agency.

ACTION: Program Guidance.

SUMMARY: This is a complete version of the guidance issued to the EPA regional water divisions on the review of advanced treatment projects, i.e. those requiring municipal wastewater treatment more stringent than secondary. This guidance was developed following action in September 1978 by the House/Senate Appropriations Conference Committtee requiring the EPA Administrator to personally approve construction grant program funds for advanced projects in cases where the incremental cost of the advanced treatment is greater than $1 million and to ensure, as a prerequisite for such approval, that the project will definitely result in significant water quality and public health improvements; for projects with an incremental cost for advanced treatment of $1 million or less, final approval remains at the regional level. The purpose of the guidance is to implement the mandate of Congress for additional review of advanced projects. This concern arose within EPA as well as Congress because advanced treatment projects can be very costly both in an absolute sense and in proportion to the added amount of pollution control obtained.

The guidance requires that all advanced treatment projects receive added scrutiny of the need for treatment beyond secondary. Two types of advanced projects are identified and each type is reviewed differently.

One group of projects comprises those treatment facilities that can produce effluent of a higher quality than secondary, still using primarily secondary treatment technology; these projects would have to meet effluent limits from 10 to 29 milligrams per liter (mg/1) for Biochemical Oxygen Demand (BOD) and Suspended Solids (SS). This treatment is referred to as advanced secondary or AST. For AST projects, a checklist is to be used by EPA regional offices in review. The checklist is to determine if basic issues in water quality evaluation (modeling, streamflow, standards violations) and in facility evaluation (total capital and O&M costs, process design) have been adequately evaluated in the facility plan

to justify the need for AST. In addition, reviewers must determine if such alternatives as seasonal operation and land treatment have been evaluated. Review for AST projects that do not have complex issues can be completed quickly; if the EPA Administrator's approval review is required (because the cost for AST treatment is greater than $1 million), the necessary Headquarters final review will be completed within 25 working days of receipt of the project.

The second group of projects comprises facilities that need to meet very stringent effluent limitations of less than 10 mg/1 BOD and SS or nitrogen removal of greater than 50 percent. These projects are called advanced waste treatment or AWT projects. These projects must satisfy six criteria relating to the achievement of beneficial uses, water quality criteria, cost-effectiveness, supportable wasteload allocations, costs, and evaluation of land treatment. Normally review of AWT projects and complex AST projects at Headquarters will be completed within 45 to 60 days.

If review of either type of project shows that all or part of the project cannot be fully justified, appropriate alternatives such as redesign, segmenting or postponement will be considered. Certain projects may be excepted from this review and allowed to proceed if they incorporate innoviative or alternative technology including land treatment or if the added costs for advanced treatment are not substantially in excess of costs for secondary treatment.

This guidance became effective upon the date of issuance of March 9, 1979, and applies to projects prepared for funding of the Step 2 (design) or Step 3 (construction) stages.

EPA anticipates that the increased review given to all advanced projects frequently will result in reduced project costs and lower user costs, will eliminate unnecessary unit processes, and will delay advanced projects or elements thereof for which no water quality analysis or other justification is available until additional data is developed. Comments on this guidance memorandum are solicted and should be sent to: Michael B. Cook, Driector, Facility Requirements Division (WH-595), Environmental Protection Agency, 401 M Street, SW., Room E1137D, Washington, D.C. 20460, telephone 202-426-9404.

For purposes of program guidance, the Environmental Protection Agency issued the following Program Requirements Memorandum (PRM 79-7) on March 9, 1979.

Subject: Grant Funding of Projects Requiring Treatment More Stringent Than Secondary

From: Thomas C. Jorling, Assistant Administrator.

To: Water Division Directors, Regions I-X.

Purpose

This memorandum sets forth Agency policy and procedures for Headquarters and regional review of wastewater treatment projects designed to meet effluent requirements more stringent than secondary treatment. It also groups such projects into two categories—advanced secondary treatment (AST) and advanced waste treatment (AWT) and defines these terms. In addition, this memorandum provides a standard for reviewing the financial impact of advanced projects upon small communities.

We anticipate that the review porcess will result in the development of improved national guidance on wasteload allocations and the water quality standards-setting process. Thus, these review requirements will be supplemented in the future by such guidance.

Discussion

The Agency has in the past expressed growing concern with the high cost and energy consumption of publicly-owned treatment works in many communities. These high costs and energy demands are frequently attribuable to optimistic projections of anticipated growth or sophisticated extra unit processes. Funding facilities with these conditions with limited grant funds results in fewer projects being funded overall, delay in accomplishing basic secondary treatment goals, and, particularly in smaller communities, the financial burden of high operation and maintenance as well as construction costs.

Consequently, the Agency has to take a hard look at the number and types of projects that are planned for treatment more stringent than secondary to achieve the Clean Water Act goals. Regions and States are reminded in this connection of the checklist procedure for all Step 2 and Step 3 projects that was instituted in the June 8, 1978, joint memo from Rhett/Davis. The checklist procedure and the independent justification described in the following sections are meant to supplement, not replace, the review of cost-effectiveness and appropriateness of facility design normally given to projects.

In action approving the FY 79 appropriation for the Construction Grants Program, the Appropriations Conference Committee agreed "that grant funds may be used for construction of new faclities providing treatment greater than secondary * * * only if the incremental cost of the advanced treatment is $1 million or less, or if the Administrator personally determines that advanced treatment is required and will definitely result in significant water quality and public health improvements."

All advanced projects with an incremental capital cost over $1 million that are recommended for funding by the regions or States must be reviewed at EPA Headquarters after completion of basic facility plan review and collection of supplementary materials by the regions or States. All other projects more stringent than secondary but with an incremental capital cost of $1 million or less shall receive a comparably intensive review at the regional/State level.

Clarification is needed for terminology used in review of projects. The Agency has defined secondary treatment as a treatment level meeting effluent limitations for Biochemical Oxygen Demand (BOD) and Suspended Solids (SS) of 30/30 mg/l on a maximum monthly average basis or 85 percent removal of these parameters, whichever is more stringent. The group of projects requiring treatment more stringent than secondary can be divided into two groups: advanced secondary treatment (AST) and AWT.

To arrive at the above distinctions the Agency reviewed about 6,300 projects shown in the 1976 Needs Survey as requiring treatment more stringent than secondary. Of the 6,300, 1,200 projects as yet unbuilt will be required to meet very stringent levels of treatment of BOD less than 10 mg/l and/or nitrogen removal. Additional analysis by the agency showed distinct cost increases and shifts to more sophisticated technology to achieve these levels. Therefore, the popularized term "AWT" should only be used to refer to treatment levels providing for maximum monthly average BOD/SS less than 10 mg/l and/or total nitrogen removal of greater than 50 percent. ("Total Nitrogen removal" = TKN plus nitrite+nitrate). These projects are subject to especially intensive review and require independent justification. Other projects requiring treatment more stringent than secondary but not to AWT levels can be referred to as "advanced secondary treatment." Review procedures for these projects are somewhat less rigorous.

A treatment facility designed to meet effluent limitations of BOD/SS 30/30 mg/l or 85 percent removal with just disinfection processes shall be considered as a secondary rather than advanced secondary treatment facility for purposes of this PRM. Other definitions of secondary treatment (e.g., 25/30 or 20/20) may be used if included in approved State criteria, if secondary treatment technologies would be used to achieve these levels, and if any extra costs (present worth) beyond those for meeting 30/30 limits would be a very small percentage of the present worth costs of the entire treatment facility. Secondary treatment facilities with just phosphorus removal add-ons with a capital cost more than $1 million and derived from the international agreement for the Great Lakes basin shall be considered advanced secondary, but not subject to Headquarters review.

The policy of the Agency is to encourage land treatment facilities and other alternative technologies which provide for reuse of wastewater or recycling of nutrients and other pollutants. Such projects usually afford water quality enhancement beyond the minimum established in permits, and water management benefits as well. Accordingly, where land treatment or other reuse/recycling technologies are designed to meet effluent limitations more stringent than secondary, the procedures herein would allow such projects to proceed without special review unless their costs were found to be excessive. Excessive costs are defined as those which would exceed the high cost criterion presented in section 3 of this memorandum or the average present worth costs of AST and AWT projects (roughly estimated at 25 percent above secondary for the former category and 50 percent for the latter).

Some AWT projects, particulary those featuring waste stabilization ponds plus filtration, may not cost more than AST projects. Thus, AWT projects with a present worth cost not exceeding that for secondary treatment by more than 25 percent may be reviewed under procedures established herein for AST projects.

The cost of treatment—secondary as well as more stringent than secondary—can have severe local fiscal impacts. The latest Title II regulations give more emphasis to alternative or individual systems and require a cost-effectiveness analysis that could result in lower project costs, especially to small communities. This emphasis, along with increased review, should help ensure that projects with excessive capacity for growth or unnecessarily designed to meet effluent requirements more stringent than secondary, with capital or operations and maintenance costs that may place an intolerable financial burden upon the community, do not receive grant funds.

Additional guidance on coordination of reviews of advanced treatment projects with the interim municipal enforcement policy will be developed in conjunction with the EPA Office of Water Enforcement.

Policy

The Agency will conduct a rigorous review of projects designed for treatment more stringent than secondary. The incremental additional capital costs of a project that are attributable to effluent limitations or water quality requirements more stringent than secondary must be based on a justification showing significant receiving water quality improvement and mitigation of public health problems where they exist. In addition, projects requiring treatment more stringent than secondary should be evalated for their financial impact upon the community. Also, the inflationary costs for delay should be considered in project reviews. The regions will review all such projects. They will decide how to proceed in accordance with this PRM for projects having incremental costs beyond secondary of $1 million or less, and for other projects explicitly designated in this PRM for final regional decison. Headquarters review and decision on how to proceed will follow preliminary regional review for the remaining projects with incremental capital costs beyond secondary greater than $1 million.

For projects with an incremental cost of $1 million or less, the review is a delegable function under the 205(g) delegation agreements. For projects with an incremental cost of greater than $1 million, States may do the initial review but regions must concur with the State's conclusions before transmitting the project to Headquarters.

Beginning in FY 1980, the delegation of that group of project reviews now conducted by Headquarters to those regional offices demonstrating capability to perform such reviews well will be considered.

Review of the projects should proceed as outlined below:

Procedure

Preliminary steps in the review should be 1) determination of the explicit effluent requirements for the project and identification as secondary, advanced secondary or AWT, and 2) determination of incremental capital cost of advanced treatment as more or less than $1 million.

1. *Review of Projects Identified as AST.* If a project is identified as having to meet advanced secondary treatment standards (more stringent than secondary but not AWT), the checklist should be used to review the project.

For project approval, the review must determine that:

1. Seasonal operation has been evaluated;

2. The land treatment alternative has been considered;

3. The advanced secondary portions of the project will definitely result in significant water quality improvements and mitigation of public health problems where they exist.

Reviews of project costs and local financial impacts must comply with section 3. If the checklist review demonstrates that the required level of treatment is not well justified, Federal funding of all or part of the project should be postponed until the project is redesigned (if necessary) or the level of treatment is fully justified.

If the project involves land treatment or other innovative/alternative technologies featuring wastewater reuse or recycling of pollutants, does not exceed the high cost criterion given in section 3 below and its incremental present worth cost does not exceed 25 percent of the cost of a new secondary treatment plant, then the project should proceed without further review. If the project does exceed the high cost or present worth criteria, the procedures prescribed herein for AST projects shall apply.

a. *Incremental cost of AST is $1 million or less.* Regions should follow the criteria and procedures given above. The decision will be made at the regional level.

b. *Incremental cost of AST is greater than $1 million.* If, after the above review, the Regional Administrator wants to proceed with funding, the project must receive approval from the Administrator in EPA Headquarters. The following material should be sent to the Office of Water Program Operations: attention Michael B. Cook, USEPA, Facility Requirements Division (WH 595), 401 M Street, SW., Washington, D.C. 20460, telephone (202) 426–9404, for final review and approval:

(1) Facility plan (draft or final) including supporting documentation on alternatives considered with region's review and comments;

(2) Completed checklist with detailed answers to supplement checked responses;

(3) Region's evaluation of water quality and public health benefits that will result from advanced secondary treatment based upon data submitted concerning the project;

(4) Region's evaluation of seasonal operation of AST portion of project; and

(5) The major documents summarizing the establishment of water quality standards and effluent limitations for the project.

Headquarters has developed procedures for the internal review of advanced secondary projects which rely heavily upon regional/State evaluations. Advanced secondary projects without complex issues are expected to be reviewed within 25 working days of receipt of the project at Headquarters.

2. *Review of Projects Identified as AWT.* Regions should assist grantees and the State in developing the data needed for an independent justification of AWT. This should include at a minimum:

(1) Facility plan (draft or final) and supporting documents, particularly on alternatives considered with region's review and comments.

(2) Completed checklist with detailed answers to supplement checked responses;

(3) Region's evaluation of water quality and public health benefits that will result from both secondary treatment and the additional treatment beyond secondary based upon data submitted for the project;

(4) The major documents summarizing the establishment of water quality standards and effluent limitations for the project;

(5) An identification and review of the need for each proposed unit process included in the proposed treatment facility for meeting the effluent limitation identified in item (4). Particular attention should be given to an assessment of the impact on beneficial uses of dropping one or a few treatment processes (or redesigning one or more treatment processes to provide a lesser degree of treatment) and the cost savings associated with these options;

(6) A detailed review of land treatment and seasonal operation alternatives; and

(7) If the item 5 and 6 review indicates a more cost-effective option, an estimate for the 20-year planning period of the capital, operation and maintenance, and total present worth costs of that option.

The review of an AWT project must determine whether the project meets all of the following criteria:

(1) The beneficial uses established for the receiving water can be attained or, if not, lesser uses can be achieved when the effluent limits are met, and industrial sources meet their pretreatment and permit conditions. Where Best Management Practices for nonpoint source control are required to achieve standards not now being attained, these controls must be in place or part of a draft or an EPA approved water quality management plan. The differences must be significant between water quality and beneficial uses attained or enhanced by the proposed project compared with water quality and uses attainable from the project with one or a few treatment processes beyond secondary dropped or modified and with less stringent effluent limitations reflecting their ommission or modification.

(2) State laws or requirements or criteria within State water quality standards are not more stringent than the Red Book criteria unless fully justified as essential to achieve and sustain the beneficial uses.

An exception to this criterion may be allowed if a project is necessary to prevent degradation of the following types of "national resources waters":

a. National Parks.
b. National Wildlife Refuges.
c. National Seashores.
d. National Monuments.
e. National Marine Sanctuaries.
f. National Estuarine Sanctuaries.

Funding necessary to prevent degradation of other waters of national, rather than regional or State, importance may be allowed on a case-by-case if both the following conditions are met:

a. The water is of truly national, rather than regional or State importance.

b. Federal legislation or regulations are directed toward protecting the specific body of water from degradation.

(3) The wasteload allocations or other analysis resulting in the effluent limitations, along with the assumptions on which the analysis is based, are scientifically supported by intensive water qualtiy surveys or appropriate field investigations conducted on the water bodies in question, and calibrated and verified models or other technically sound analyses.

(4) The treatment processes are the most cost-effective means of meeting the prescribed effluent limitations.

(5) The community is aware of the project's costs for treatment and reserve capacity. Cost information on total capital costs, local financing, and annual or monthly operating and debt service costs should be presented at a public hearing as required in PRM 76–3. Review of project costs and local financial impacts must comply with section 3.

(6) Land treatment has been fully evaluated.

If the above conditions are not met, either the entire project or its AWT elements (if they can be separated out) should not be funded pending further action.

Federal funding of all or the unjustified part of the project should be postponed until the project (if necessary) is redesigned or the level of treatment is fully justified. The advanced wastewater treatment increment of the project that is not justified should not be funded unless and until the project will result in significant water quality and public health improvements.

Should the review show that AWT cannot be justified, but that some treatment greater than secondary can be justified under the rules for review of AST projects, then the justified portion should be funded. The project should be segmented to permit funding of the justified portion and that section should be designed, if practicable, to allow addition of the other segment at a later date after further analyses.

Projects may be excepted from the AWT review procedures under the following circumstances:

(1) Project features land treatment or other innovative/alternative technologies affording wastewater reuse or recycling of pollutants where the project's cost would not exceed the high cost criterion described in section 3. Also, the incremental present worth cost of such a project must not exceed 50 percent of the present worth cost of a new secondary treatment project. If these criteria are met, the project may proceed without further review.

(2) The AWT project's incremental present worth cost does not exceed 25 percent of the present worth cost of a new secondary treatment facility. Project review must, nevertheless, conform with AST review procedures.

a. *Incremental cost of AWT is $1 million or less.* Regions should follow the criteria and procedures given above. The decision will be made at the regional level.

b. *Incremental capital cost of AWT is greater than $1 million.* If the Regional Administrator is satisfied that the project meets all of the required criteria and wants to proceed with funding, the project must receive approval from the Administrator in EPA Headquarters.

The region shall furnish a report covering all of the criteria listed in section 2 and forward each of the documents listed in section 2 to the Office of Water Program Operations: attention Michael B. Cook, Director, Facility Requirements Division (WH 595), United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 426–9404, as soon as possible after the need for Headquarters review is identified.

Headquarters has developed internal procedures for a task force review of complex AST and AWT projects that will review the major issues and questions intensively based upon the material sent in by regions and States. Decisions will be made on the basis of the criteria outlined above. It is planned for the Administrator's decision on the project to be made within 45 to 60 working days of receipt of the project at Headquarters. This decision will be communicated to the regions.

3. *Local Financial Impacts.* All projects designed to achieve treatment more stringent than secondary must be evaluated in terms of financial impact upon the communuity. This evaluation should supplement the display and disclosure of financial information and local costs required of all facility plans and described in PRM 76–3. Total annual costs to a typical domestic user comprise both the existing preproject costs and the increase attributable to the proposed new facilities. A project shall be considered high-cost when the total average annual cost (debt service, operation and maintenance, connection costs) to a domestic user exceeds the following percentage of median household incomes:

1.50 percent when the median income is under $6,000.

2.00 percent when the median income is $6,000–$10,000.

2.50 percent when the median income is over $10,000.

If review shows that a project is high cost, try to determine which elements of the project are responsbile. Determine whether it is the treatment processes selected, excessive reserve capacity, new sewer construction, or other factors in the physical setting that may cause excessive costs in either construction or operation of the facility. Work with the grantee and the State to revise the facility plan or redesign the project to reduce the costs, or obtain assistance from the Farmer's Home Administration (FmHA) or another source with the local share. There is agreement between FmHA, EPA and Economic Development Administration for all to use the above rule-of-thumb in review of projects. Regions should proceed with a project determined to be high cost under this criterion only after consulting with the Facility Requirements Division in Headquarters.

Implementation

This policy shall be implemented immediately as follows. Regions shall advise States of the policy of strict review in the regions and Headquarters of treatment more stringent than secondary (advanced secondary and AWT). They should also be advised of the Agency's policy not to fund such projects if not justified. The policy should be applied to all projects prepared for Step 2 or 3 funding.

Dated: March 9, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-15648 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1228-2; PP 9G2150/T206]

Establishment of a Temporary Tolerance; Glyphosate

Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, submitted a pesticide petition (PP 9G2150) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity stone fruit at 0.2 part per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (524–EUP–47) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use permit that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires April 16, 1981. Residues not in excess of 0.2 ppm remaining in or on stone fruit after this expiration date will not be considered actionable if the pesticide is legally applied during the term of an in accordance with the provisions of the experimental use permit and temporary tolerance. This tempoarary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager 25, Registration Division (TS–767), Office of Pesticide Programs, 401 M Street SW., Washington, DC 20460 (202/755–7013).

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j))).

Dated: May 10, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-15649 Filed 5-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1228-3; OPP-30163]

Receipt of Applications To Register Pesticide Products Containing New Active Ingredient

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Notice of these applications is given pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR Part 162). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Program Support Division (TS–757), Office of Pesticide Programs, EPA, Room 401 East Tower, 401 M St., SW, Washington, DC 20460. The comments must be received on or before June 20, 1979, and should

bear a notation indicating the EPA file symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning these applications and the data submitted should be directed to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, at the above address or appropriate telephone number cited. The labels furnished by each applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products will be announced in the **Federal Register**. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the **Federal Register** if an application is approved.

Dated: May 10, 1979.

Douglas D. Campt,

Director, Registration Division.

Applications Received

EPA File Symbol 7969–LE. BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054. PIX COTTON PLANT REGULATOR. Active Ingredient: *N,N-dimethylpiperidinimum chloride* 4.2%. Application proposes that this product be classified for general use as a foliar-applied plant regulator in cotton. Product Manager (PM) 25, Mr. Robert Taylor, 202/755–2196.

EPA File Symbol 11273–EE. Sandoz, Inc., 480 Camino del Rio South, Suite 204, San Diego, CA 92108. SAFROTIN—4 EMULSIFIABLE CONCENTRATE INSECTICIDE. Active Ingredient: *Propetamphos [(E)–1–methylethyl 3–[[(ethylamino) methoxyphosphinothioyl] oxy]–2–butenoate]* 50%. Application proposes that this product be classified restricted for the indoor control of cockroaches. Product Manager (PM) 16, William H. Miller, 202/755–9315.

EPA File Symbol 11273–ER. Sandoz, Inc. TECHNICAL PROPETAMPHOS (Manufacturing Use Only). Active Ingredient: Propetamphos 91%. Application proposes that this product be used as a technical ingredient only in formulating insecticides. PM16.

[FR Doc. 79–15650 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1228–5]

Status of Listing Decision on Arsenic Under Section 122 of the Clean Air Act and Call for Further Information

This notice describes the status of EPA's decision on whether to list arsenic for regulation under the Clean Air Act. That decision is required by section 122 of the Act, which was added by the Clean Air Act Amendments of 1977. Section 122 requires EPA to determine whether or not emissions of arsenic into the ambient air will cause or contribute to air pollution which may reasonably be anticipated to endanger public health. If the finding is affirmative, the Agency is required to list arsenic for regulation under the appropriate section of the Act (section 108, 111, or 112).

On May 22 and 23, 1978, EPA submitted three draft documents on the health effects of arsenic to a subcommittee of the Agency's Science Advisory Board (SAB) for its review: (1) A Risk Assessment, (2) Human Exposure to Atmospheric Arsenic, and (3) an Assessment of the Health Effects of Arsenic Germane to Low Level Exposures. The subcommittee recommended substantial changes to these documents. The documents were therefore revised and resubmitted to the SAB subcommittee on January 10, 1979.

After reviewing the revised documents, the subcommittee concluded that the association between exposure to arsenic and the development of cancer was well established. The SAB subcommittee also recommended, however, that further work be done on the documents to improve in various respects their treatment of the health effects of arsenic. EPA has therefore undertaken further revision of these health effects documents. This final revision is expected to be completed sometime in August.

The Agency remains interested in receiving any information on the health effects of arsenic that has not been considered in the draft documents submitted to the SAB subcommittee. Persons having such information are requested to submit it as soon as possible to: Dr. Lester Grant, Director, Environmental Criteria and Assessment Office, Environmental Protection Agency, Mail Drop 52, Research Triangle Park, North Carolina 27711.

For further information on the status of the Agecny's decision on listing arsenic, contact: Mr. Joseph Padgett, Director, Strategies and Air Standards Division, Environmental Protection Agency, Mail Drop 12, Research Triangle Park, North Carolina 27711.

Dated: May 11, 1979.

Walter C. Barber,

Deputy Assistant Administrator for Air Quality Planning and Standards.

[FR Doc. 79–15652 Filed 5–18–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing; and

The following entry appeared on the Public Notice (Mimeo #16815) released April 26, 1979, FR 79–13739 listing translator applications which would be considered as ready and available for processing on June 14, 1979.

BPTT–781222IC, New, Tucson, Arizona, Seven Hills Television Company, Req: Channel 40, 626–632 MHz, 10 watts, Primary: KTVW–TV, Phoenix, Arizona.

The entry is corrected to read as follows:

BPTT–781222IC, New, Tucson, Arizona, Seven Hills Television Company, Req: Channel 40, 626–632 MHz, 1000 watts, Primary: KTVW–TV, Phoenix, Arizona.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79–15771 Filed 5–18–79; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan , Puerto Rico. Interested parties may submit comments on each agreement, including

requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 11, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3756-1.

Filing party: Einar C. Petersen, Deputy City Attorney, The City of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, California 90802.

Summary: Agreement No. T-3756-1, between the City of Long Beach and Seamount, Inc. (Seamount) modifies the parties basic agreement which provides for Seamount's one-year lease (with renewal options) of a portion of the Queen Mary Plaza Administration Building on Pier J, Long Beach, California to be used for offices. The purpose of the modification is to re-establish the commencement date of the term of the lease as February 27, 1979.

Agreement No. T-3800.

Filing party: Leslie E. Still, Jr., Senior Deputy City Attorney, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3800, between City of Long Beach (City) and General Steamship Terminals, Ltd., and Kerr Terminals, Inc., a Joint Venture, doing business as California United Terminals (CUT), provides for the preferential assignment to CUT of specified berths and back area on Pier B and C, including certain specified buildings and structures, but not including two container cranes. The agreement provides for a term of ten years, with two additional five-year options. As compensation for the assigned premises, CUT will pay accrued tariff charges to the port, with a guaranteed annual minimum to be paid, and with the tariff charges for wharfage, dockage, wharf storage and demurrage apportioned as set forth in the agreement.

AGREEMENT NO. T-3807.

Filing party: Randall V. Adams, Port of Palm Beach, Traffic, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T-3807, between the Port of Palm Beach (Port) and Florida Power & Light Company (FPL), provides for the granting by the Port to FPL of an easement for the installation, maintenance, repair, improvement and operation of underground oil transfer pipelines, as well as for the installation, operation and maintenance of valve pits and unloading arm pits for the purpose of loading and unloading marine oil tankes into the underground oil transfer pipelines. As compensation, FPL agrees to transport a minimum of 500,000 short tons of fuel, upon which the Port will derive wharfage, dockage and any other applicable tariff charges.

By order of the Federal Maritime Commission.

Dated: May 16, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-15780 Filed 5-18-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this neeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATE: June 21, 1979, 3:30 p.m. to 5:30 p.m., Executive Committee Meeting; June 22, 1979, 9:30 a.m. to 5:00 p.m.; June 23, 1979, 9:00 a.m. to 1:00 p.m.

ADDRESS: June 21 & 23, 1979, Santa Barbara Inn, Santa Barbara, California; June 22, 1979, 9:30 a.m. to 11:00 a.m., Work Training Program, Inc., Santa Barbara, California, and 11:30 a.m. to 5:00 p.m., Santa Barbara City College, Santa Barbara, California.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendation (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

FY-81 Council Budget
Annual Report
Committee Reports—Legislation/Appropriations, Liaison, Program Effectiveness
USOE Report—State Plans and Regulations
Work Training Program, Inc.
Santa Barbara City College—Adult and Continuing Education Overview, Campus Programs, Fine Arts
Comprehensive Legislation

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C., on May 15, 1979.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 79-15786 Filed 5-18-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

Meeting of the Secretary's Advisory Committee on the Rights and Responsibilities of Women

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women will meet on Tuesday, June 5, 1978 from 9:30 a.m. to 5:00 p.m., and on Wednesday, June 6, 1979, from 9:00 a.m. to 3:00 p.m., in Room 1137, HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. The agenda will include reports from Title IX, Health, Family Policy, Social Security and Equal Employment Task Forces and action decisions based upon those reports.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202/245-8454. These meetings are open to the public.

Dated: May 15, 1978.

Susan C. Lubick,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 79-15806 Filed 5-18-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Public Service Co. of New Mexico's Four Corners to Ambrosia Lake to Albuquerque 500 kV Transmission Line; Intent To Prepare an Environmental Impact Statement and Scoping Meeting

May 16, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

The Bureau of Indian Affairs, Navajo Area Office will prepare an environmental impact statement for the proposed construction and operation of a 500 kV electrical power transmission line by the Public Service Company of New Mexico from the Four Corners Generating Station to Ambrosia Lake to Albuquerque, lying entirely within the state of New Mexico.

The proposed project would require the Bureau of Indian Affairs, The Bureau of Land Management, and the U.S. Forest Service to issue rights-of-way across Indian, Natural Resources, and National Forest lands respectively. The environmental impact statement will address the effects of the construction and operation of the power line on the physical, biological and scio-economic environment.

Pursuant to the requirements of 40 CFR 1501.7, a public scoping meeting will be held to identify interested public and private entities with an interest in the proposal, and identify the major and minor areas of impact. The meeting will be held on June 12, 1979, from 3:00 p.m. to 5:00 p.m. and from 7:00 p.m. to 9:00 p.m., in the Tesuque Room of the Albuquerque Convention Center in Albuquerque, New Mexico. Interested parties are encouraged to attend the meeting or submit comments in writing to this office.

For further information concerning the proposed action, the scoping meeting or the environmental impact statement, contact Howard Zeutzius, Environmental Quality Coordinator, Navajo Area Office, Bureau of Indian Affairs, Window Rock, Arizona 86515, telephone number (602) 871-5151, extension 5314 or FTS 479-5314.

Dated: May 16, 1979.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 79-15722 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Burley District, Idaho; Redelegation of Authority to Area Managers

In accordance with Bureau Order No. 701 of July 23, 1964, (FR Doc. 64-7492; 29 FR 10526) as amended, the Area Managers of the Magic, Raft River and Bannock-Oneida Resource Areas of the Burly District, Idaho, are authorized to perform in their respective areas of responsibility in accordance with existing policies and regulations of this Department and under the direct supervision of the District Manager, the functions listed below, subject to the limitations set forth in Bureau Order No. 701, as amended, together with any limitations specified below.

Section 3.2—General and miscelaneous matters. On matters in which he/she is authorized to act, the Area Manager may take all action on:

(b) Cancellations or surrenders of contracts.

Section 3.3—FISCAL AFFAIRS. On matters in which he/she is authorized to act, the Area Manager may take all actions on:

(b) Contributions, donations, and refunds.

(d) *Treaspass.* Determine liability for trespass on the public lands when actual damages do not exceed $5,000. Accept payment in full irrespective of amount. Dispose of resources recovered in trespass cases for not less than the appraised value thereof.

Section 3.6—Minerals. The Area Manager may take all actions on:

(m) Oil and gas exploration operations pursuant to 43 CFR Subpart 3045.

(n) *Geothermal Resource Leases.* Take all actions involving geothermal resource exploration and operations as provided in 43 CFR 3203.6 and Subpart 3209.

Section 3.7—Range management. The Area Manager may take all listed actions on:

(a) *Grazing District Administration.*

(1) Licenses and permits to graze or trail livestock, including authority to issue Sec. 3 Grazing Decisions.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(3) The expenditure of funds appropriated by Congress, or contributed by individuals, associations, advisory boards, or others for the construction, purchase or maintenance of range improvements.

(8) Refunds pursuant to 43 CFR 4115.2-1(k)(2).

(b) Grazing leases—including authority to issue Sec. 15 Grazing Decisions.

(c) Appropriation of water.

(d) Soil and moisture conservation; control of *Halogeton glomeratus.*

(f) Protection of wild, free-roaming horses and burros. Except authorizations to capture and remove excess animals.

Section 3.8—Forest management. The Area Manager may take all actions on:

(a) Disposition of forest products except sales of timber in excess of 10,000,000 feet board measure must be approved by State Directors or their delegates, prior to advertisements.

Section 3.9—Land use. The Area Manager may take all the listed action on:

(g) Material other than forest products not exceeding $2,000.00.

(m) *Rights-of-Way.* Grant rights-of-way over public and acquired land pursuant to 43 CFR Subpart 2811.

(o) *Special land-use permits.*

(1) Issue special land use permits for public lands within the grazing district.

(3) Special land-use permits for lands outside the established grazing district when specifically authorized by the District Manager.

(z) *Recreation.* All actions relating to recreation management pursuant to 43 CFR Parts 6000 through 6290.

Section 3.10—Designation of acting officials.

(a) Area Managers may, by written order, designate any qualified employee of the Resource Area to perform the functions of the Area Manager in his/her absence.

(b) Each employee who serves in such capacity (a) above, shall prepare a memorandum to be kept in the district office showing the date and hour of the commencement and termination of each period of his/her service in that capacity.

This Delegation supersedes all previous Bureau Order No. 701 redelegations to Area Managers by the Burley District Manager.

This redelegation will be effective May 21, 1979.

Nick James Cozakos,

District Manager.

Approved: May 8, 1979.

William L. Mathews,

State Director.

[FR Doc. 79-15783 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare a Grazing Environmental Impact Statement for the Tonopah Resource Area, Nev.

The Bureau of Land Management, Battle Mountain District Office, will be preparing a Grazing Environmental Impact Statement for the Tonopah Resource Area, located in south-central

Nevada. The Bureau's proposed action to be analyzed in the statement is to implement a program of allocating vegetation to cattle, sheep, domestic horses, mule deer, wild horses, antelope, bighorn sheep, and elk. The action will also identify kinds of livestock, livestock numbers, periods of use, and range improvement projects (e.g., chaining, fencing, water development). This allocation program will be accomplished through the Bureau of Land Management's Planning System on approximately 3.75 million acres of BLM administered lands.

Alternatives to the proposed action that will be analyzed include: 1) No Action—This is defined as the existing range management program in the Tonopah Resource Area; 2) No Livestock Grazing—This is the exclusion of all livestock grazing from BLM administered public lands in the Tonopah Resource Area; 3) Maximizing Livestock Grazing—This is the maximum allocation of vegetation to livestock. Allocations to wild horses would not be made; 4) Maximizing Wild Horses—This is the allocation of vegetation for maximum numbers of wild horses in the Tonopah Resource Area; and 5) Maximizing Wildlife Habitat—This is the allocation of vegetation for maximum big game habitat by use areas that have been designated by the Nevada Department of Fish and Game. It could also include allocations to other wildlife in critical use areas.

The Bureau of Land Management's scoping process for the Tonopah Environmental Impact Statement will include: 1) An identification of issues to be addressed; 2) Contact of interested individuals, groups, and agencies for additional information concerning these issues; and 3) An identification of persons within the agency who can answer questions about the proposed action and alternatives.

The following steps will be utilized to accomplish the scoping process:

1. A formal meeting will be held between the Bureau of Land Management and the Nevada State Clearinghouse. The meeting will be held on June 13, 1979, at the BLM Carson City District Office, 1050 East Williams Street, Suite 335 in Carson City, Nevada, at 0900 A.M. This meeting will be a briefing of State Agencies concerning the proposed action and alternatives and for getting their input on the issues of the BIS.

2. Letters of invitation will be mailed to all affected Federal, State, and local agencies, any affected Indian tribes, and other interested persons concerning the issues of the Environmental Impact Statement. Briefing meetings will be held if requested.

The following individuals will be available by appointment, between May 31–June 8, 1979, to answer questions about the proposed action or to receive information concerning the Environmental Impact Statement: 1) Gene Nodine, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820—Phone 635–5181; 2) Rex Rowley, Tonopah Area Manager, Bld. M102 Military Circle, Tonopah, Nevada 89049—Phone 482–6214; 3) Neil Talbot, Environmental Team Leader, P.O. Box 194, Battle Mountain, Nevada 89820—Phone 635–5181; and 4) Mike Walker, Environmental Coordinator, Room 3008 Federal Building, 300 Booth Street, Reno, Nevada 89509—Phone 784–5602.

A news release regarding the start of the environmental statement process will be issued by the Battle Mountain District following the publication of this notice.

Written comments will be accepted until June 27, 1979. They should be sent to Gene Nodine, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820.

Dated: May 8, 1979.

E. I. Rowland,

State Director, Nevada.

[FR Doc. 79-15703 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Colorado National Monument; Partial Boundary Correction, Clarification, and Revision; Correction Notice

The above-titled publication appearing in FR Doc. 78–2479, Vol. 44, No. 43, Friday, March 2, 1979, contained two errors in the description as published. Both errors are on page 11851.

1. In the middle column on line 31 from the bottom, change "* * * T. 11 S., R. 101 W., * * *" to "* * * T. 11 S., R. 102 W., * * *".

2. In the third column on the last line, change "* * * sec. 21; * * *" to "* * * sec. 27; * * *".

Dated: May 8, 1979.

Glen T. Bean,

Regional Director, Rocky Mountain Region.

[FR Doc. 79-15792 Filed 5-18-79; 8:45 am]

BILLING CODE 4310-70-M

Revised Land Acquisition Policy

Correction

In FR Doc. 79–12831 appearing at page 24790 in the issue for Thursday, April 26, 1979, make the following corrections:

(1) On page 24794, in the third column, and on page 24795, in the first and second columns, in paragraphs (1) through (11), the word "Resevoir" should be changed to read "Reservor" wherever it appears.

(2) On page 24794, in the third column, in paragraph (2), in the ninth line, the word "oridinances" should be spelled "ordinances".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on May 4, 1979, a proposed consent decree in *United States* v. *Hunt-Wesson* was lodged with the United States District Court for the Eastern District of Louisana. The proposed decree would require Hunt-Wesson to construct and operate a secondary treatment facility in order to achieve compliance with its NPDES permit and the recommended penalty upon entry of the judgment.

The Department of Justice will receive until June 20, 1979, written comments relating to the proposed judgmnt. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Hunt-Wesson*, D. J. Ref. 90–5–1–1–1146.

The proposed consent decree may be examined at the office of the United States Attorney, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisana, 70130, at the Region VI office of the Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas, 75270, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, (Room 2625), Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and

Natural Resources Division, Department of Justice.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-15784 Filed 5-18-79; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Enjoin Discharge of Air and Water Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, a notice is hereby given that on May 7, 1979, a proposed consent decree in *United States* v. *Crucible, Inc. and Colt Industries, Inc.*, was lodged with the United States District Court for the Western District of Pennsylvania. The proposed decree requires the companies to construct pollution control facilities to meet the requirements of the Clean Air Act and Clean Water Act at their Midland, Pennsylvania, steel-making plant and imposes a civil penalty of $2 million.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Crucible, Inc. and Colt Industries, Inc.*, D.J. Ref. 90-5-2-3-1004.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Pennsylvania, U.S. Courthouse, Pittsburgh, Pennsylvania; the Clerk of the District Court, Western District of Pennsylvania, U.S. Courthouse, Pittsburgh, Pennsylvania; and the Pollution Control Section, Land and Natrual Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-15785 Filed 5-18-79; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISICS

Public Meeting

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on June 21 and June 22, 1979, in Room 550, 2000 K Street, NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under Section 13 of the Emergency Jobs Program Extension Act of 1975, Public Law 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and employment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:00 a.m. to review the draft of the commission's final report. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 15th day of May, 1979.

Sar A. Levitan,

Chairman.

[FR Doc. 79-15710 Filed 5-18-79; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held June 6, 1979, from 9:00 a.m. to 5:30 p.m., and June 7, 1979, from 9:30 a.m. to 5:30 p.m., in Room 1426, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 6, 1979 from 9:00 a.m. to 12:30 p.m. The topic of discussion will be Policy.

The remaining sessions of this meeting on June 6, 1979, from 12:30 p.m. to 5:30 p.m., and June 7, 1979, from 9:30 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National endowment for the Arts.

May 15, 1979.

[FR Doc. 79-15807 Filed 5-21-79; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses to Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.40, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day May 14, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Gerald G. Oplinger,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
1. Transnuclear, Inc., 05/03/79, 05/04/79, XU08461.	0.3% Depleted Uranium	126,000	378	For metallurgical alloy tests	France.
2. Transnuclear, Inc., 05/03/79, 05/04/79, XSNM01506.	3.35% Enriched Uranium	22090.900	740.046	Fuel for Gosgen-Daniken Reactor	Switzerland.
3. Mitsui & Co., 05/01/79, 05/07/79, XSNM01509.	3.95% Enriched Uranium	3,808	102	Fuel for Fukushima I, Unit No. 3	Japan.
4. General Electric, 04/25/79, 05/03/79, XCOM0240.				Miscellaneous parts and components for Tarapur Units 1 and 2. Value $180,000.	India.
5. Edlow Internat'l, 05/07/79, 05/07/79, XUO8460.	.711% Natural Uranium	1,000,000		For conversion and return to U.S	United Kingdom.

[FR Doc 79-15674 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-237]

Commonwealth Edison Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Provisional Operating License No. DPR-19, issued to Commonwealth Edison Company (the licensee), which revised the license and its appended Technical Specificiations for operation of Dresden Nuclear Power Station, Unit No. 2 (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment (1) authorizes operation with 160 8 x 8 R fuel assemblies, (2) incorporates operating limits based on plant specific analyses for Reloan No. 4, and (3) modifies License Condition 3.F to revise end-of-cycle coastdown limits for Cycle 4 conditions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropiate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with Item (1) above was published in the **Federal Register** on March 6, 1979 (44 FR 12302). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. Prior public notice of Items (2) and (3) above was not required since these matters do not involve a significant a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 15, 1979, and supplements thereto dated March 2, 1979, April 6, 1979, April 12, 1979, and April 20, 1979, (2) Amendment No. 43 to License No. DPR-19, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of April, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch # 2, Division of Operating Reactors.

[FR Doc. 79-15663 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-245 and 50-336]

Connecticut Light & Power Co.; Issuance of Amendments To Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Provisional Operating License No. DPR-21 and Amendment No. 51 to Facility Operating License No. DPR-65 to Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company, which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit Nos. 1 and 2 (the facilities), located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

These amendments to the Environmental (Appendix B) Technical Specifications will provide more flexibility in the sampling schedules and sample collection for aquatic monitoring and reflect improved techniques and modified program objectives.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal relating to the action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facilities dated June 1973.

For further details with respect to this action, see (1) the application for amendments dated March 21, 1978, (2) Amendment Nos. 60 and 51 to License Nos. DPR-21 and DPR-65, respectively, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of April 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 79-15684 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power & Light Co. et al; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 48 and 40 to Facility Operating License Nos. DPR-31 and DPR-41, respectively, issued to Florida Power and Light Company which revised Technical Specifications for operation of the Turkey Point Plant Unit Nos. 3 and 4, located in Dade County, Florida. These amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to require actuation of safety injection based on two out of three channels of low pressurizer pressure.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 2, 1979, (2) Amendment Nos. 48 and 40 to License Nos. DPR-31 and DPR-41 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of May 1979.

For The Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc. 79-15665 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-498A, 50-499A]

Houston Lighting & Power Co. et al.; Conference With Counsel

In the Matter of Houston Lighting & Power Company, et al. (South Texas Project, Units 1 and 2), [Docket Nos. 50-498A, 50-499A,] Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2), [Docket Nos. 50-445A, 50-446A]

May 15, 1979

A number of contested motions relating to various aspects of discovery are pending, as well as motions for summary disposition and responses thereto. The Licensing Board will hear arguments of counsel and will consider all motions and other pending matters at a conference with counsel.

Please take notice that a conference with counsel in these proceedings will be held at the Nuclear Regulatory Commission Hearing Room on June 1, 1979, commencing at 9:00 a.m., local time, located at 4350 East West Highway, 5th Floor, Bethesda, Maryland 20014.

It is so ordered.

Dated at Bethesda, Maryland this 15th day of May 1979.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman.

[FR Doc. 79-15666 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co., Shoreham Nuclear Power Station; Order Extending Construction Completion Date

Long Island Lighting Company is the holder of Construction Permit No. CPPR-95, issued by the Atomic Energy Commission * on April 14, 1973, for construction of the Shoreham Nuclear Power Station. This facility is presently under construction at the applicant's site on the north shore of Long Island in the town of Brookhaven, Suffolk County, New York.

On December 18, 1978, the applicant requested an extension of the latest completion date because construction has been delayed by the following events beyond its control:

1. strikes
2. insufficient craft manpower
3. severe weather conditions
4. regulatory changes
5. late delivery of critical equipment

This action involves no significant hazards consideration; good cause has been shown for delay; and the extension is for a reasonable period, the bases for which are set forth in an NRC staff evaluation dated May 14, 1979.

The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action authorized by the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement—Operating License Stage for the Shoreham facility, published in October 1977 and the Final Environmental Statement-Construction Permit Stage published in September 1972. A negative declaration and an environmental impact appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Shoreham-Wading Public Library, Route 25A, Shoreham, New York 11786.

It is hereby ordered that the latest completion date for Construction Permit No. CPPR-95 is extended from May 1, 1979 to December 31, 1980.

For The Nuclear Regulatory Commission.

Date of Issuance: May 14, 1979.

Roger S. Boyd,

Director Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-15667 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Negative Declaration Supporting Extension Of Construction Permit No. CPPR-95 Expiration Date for Shoreham Nuclear Power Station, Unit 1

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Long Island Lighting Company (permittee) request to extend the expiration date of the construction permit for the Shoreham Nuclear Power

* Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

Station, Unit 1 (CPPR–95) which is located in Suffolk County in the state of New York. The permittee requested a 14 month extension to allow for completion of construction of the plant.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to this change to CPPR–95. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statements (FES) which have been issued at both the construction permit and operating license stages. (While an operating license has yet to be issued for the Shoreham facility, the FES concerning operation was issued in October 1977.)

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York.

Dated at Bethesda, Maryland, this 14th day of May, 1979.

For The Nuclear Regulatory Commission.

Wm. H. Regan, Jr.

Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-15668 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-404 and 50-405]

North Anna Power Station, Units No. 3 (CPPR-114) and 4 (CPPR-115); Negative Declaration Supporting Order Relating to the Extension of Dates for Completion of Construction

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Order relating to the extension of construction permits for the North Anna Power Station, Unit 3 (CPPR–114) and Unit 4 (CPPR–115), located in Louisa County, Virginia, issued to Virginia Electric and Power Company. The Order would authorize the extension of the dates for completion of construction of Units 3 and 4 to December 31, 1983, and December 31, 1984, respectively.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the Order and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environemtnal impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for North Anna Power Station, Units Nos. 1, 2, 3 and 4, published in April 1973, and considered in the Atomic Safety and Licensing Board's Initial Decision dated July 18, 1974.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room 1717 H Street, NW, Washington, DC and at the Board of Supervisors, Louisa County Courthouse, Louisa, Virginia and Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 18th day of April 1979.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr.,

Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-15672 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

Public Service Electric & Gas Co.; Hearing

Before the Atomic Safety and Licensing Board.

In the Matter of Public Service Electric & Gas Co., (Salem Nuclear Generating Station, Unit 1), (Spent Fuel Expansion), (Docket No. 50–272).

Notice is hereby given that the evidentiary hearing in the above proceeding shall be reconvened on July 10, 1979 at 9:30 a.m. in the Freeholders Meeting Room (Room 7), New Salem County Courthouse, 94 Market Street, Salem, New Jersey.

Testimony to be offered at the above hearing shall be filed in writing by June 19, 1979. Parties filing testimony shall also describe all accompanying exhibits and documents, specifying those which the parties wish to have officially noticed, make all requests for stipulations concerning admissibility, and state the proposed order of proof. Objections to this testimony, or to documents, exhibits or the order of proof, shall be filed in writing by June 29, 1979. Parties shall also file an outline of cross-examination by July 29, 1979. The word "file" as used here means deposited appropriately in the United States mail on the date stated.

It Is So Ordered.

Dated at Bethesda, Maryland this 14th day of May 1979.

For The Atomic Safety and Licensing Board.

Gary L. Milhollin,

Chairman.

[FR Doc. 79-15669 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR–33, Amendment No. 45 to Facility Operating License No. DPR–52 and Amendment No. 23 to Facility Operating License No. DPR–68 issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

The amendments add a condition to the license for each facility authorizing TVA to improve the performance of the emergency core cooling systems by changing the power supply to the low pressure coolant injection (LPCI) system in each Unit and to modify the Unit No. 3 loop selection logic circuitry.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 28, 1977, (2) Amendment No. 51 to License No. DPR–33, Amendment No. 45 to License No. DPR–52, and Amendment No. 23 to License No. DPR–68, and (3) the

Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief Operating Reacting Branch #3, Division of Operating Reactors.

[FR Doc. 79-15670 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-404 and 50-405]

Virginia Electric and Power Co.; North Anna Power Station, Units 3 and 4; Order Extending Construction Completion Dates

Virginia Electric and Power Company is the holder of Construction Permits No. CPPR-114 and CPPR-115 issued by the Atomic Energy Commission* on July 26, 1974, for the construction of the North Anna Power Station, Units 3 and 4, presently under construction at the Company's site in Louisa County, Virginia.

By letter, dated November 21, 1978, and supplemented by letter dated January 17, 1979, the Company filed a request for an extension of the latest construction completion dates because construction has been delayed due to (1) lack of construction funds and (2) voluntary postponement in construction activities due to efforts at conservation and load management. Potential future delays are expected due to (1) unknown future construction budget, pending a decision by the Virginia State Corporation Commission on Virginia Electric and Power Company's requested rate relief and (2) possible design changes necessary to conform with current regulatory requirements. This action involves no significant hazards consideration; good cause has been shown for the delay; and the extension is for a reasonable period, the bases for which are set forth in the staff evaluation, dated May 8, 1979. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for the North Anna Power Station, Units 1, 2, 3, and 4, published in April 1973, and considered in the Atomic Safety and Licensing Board's Initial Decision, dated July 18, 1974. A Negative Declaration and Environmental Impact Appraisal have been prepared and are available, as are the above documents, for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Local Public Document Rooms established for the North Anna facility in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia and at the Office of the Board of Supervisors, Louisa County Courthouse, Louisa, Virginia.

It is hereby ordered that the latest completion dates for CPPR-114 and CPPR-115 are extended from December 31, 1978 and December 31, 1979, respectively, to December 31, 1983 and December 31, 1984, respectively.

Date of Issuance: May 14, 1979.

For the Nuclear Regulatory Commission.

Roger S. Boyd,

Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-15671 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 38 and 43 to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company, which revised Technical Specifications for operation of Point Beach Nuclear Plant Unit Nos. 1 and 2, located about 15 miles north of Manitowoc, Wisconsin. The amendments are effective as of the date of issuance.

The amendments require actuation of safety injection based on two out of three channels of low pressurizer pressure, revise the opening logic for the pressurizer power-operated relief valves, authorize modifications to the power supplies for safety injection actuation channels, and require that a unit be shutdown in the event certain channels should fail pending completion of the power supply modifications.

The applications for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 27, 1979, as supplemented May 7, 1979, (2) Amendment No. 38 to License No. DPR-24, (3) Amendment No. 43 to License No. DPR-27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the University of Wisconsin, Stevens Point Library, Stevens Point, Wisconsin 54481. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of May, 1979.

For The Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch # 1, Division of Operating Reactors.

[FR Doc. 79-15673 Filed 5-18-79; 8:45 am]

BILLING CODE 7590-01-M

Privacy Act of 1974; Systems of Records; Minor Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Adoption of minor amendments to system of records.

SUMMARY: The Nuclear Regulatory Commission is amending System of Records, NRC-27, which contains personal information about individuals and from which such information can be retrieved by an individual identifier. Amendments are made to paragraphs entitled "Categories of individuals

* Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that date continued under the authority of the Nuclear Regulatory Commission.

covered by the system" and "Routine uses of records maintained in the system * * *." The amendments are minor. The amendment of the "Routine uses" paragraph is of a clarifying nature and does not add any new use or intended use of the information in the system.

EFFECTIVE DATE: These amendments become effective on May 21, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–7211.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices have been published as documents subject to publication in the annual compilation of Privacy act documents.

The amendments set forth below amend the paragraph entitled "Categories of individuals covered by the system" of NRC–27, "Radiation Exposure Information and Reports System (REIRS) Files—NRC" to include records of individuals who may have been exposed to radiation or radioactive materials off-site from a facility, plant, installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material. The amendments also clarify the paragraph entitled "Routine uses of records * * *." This clarification does not add any new use or intended use of the information in the system, but only states that records of individuals who may have been exposed to radiation are part of the data that may be provided to others under the system's routine use provisions.

Because these amendments relate solely to minor matters, good cause exists for omitting notice and public procedure thereon, as unnecessary, and for making the amendments effective on May 21, 1979.

Pursuant to the atomic Energy act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, sections 552 and 552a of title 5 of the United States Code, notice is hereby given of the adoption of the following amendments to NRC System of Records, NRC–27, which are published as a document subject to publication in the annual compilation of Privacy Act documents.

The paragraphs of NRC–27 entitled "Categories of individuals covered by the system" and "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" are revised to read as follows:

NRC–27

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported pursuant to 10 CFR 20.401 and 20.405 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials off-site from a facility, plant, installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material; monitored individuals terminating their service with the Navy, as required by NAVMED P–5055, Radiation Health Protection Manual; and monitored employees of all the registrants of the State of Illinois.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and state agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph "Categories of individuals covered by the system;" and

b. For any of the routine uses specified in the Prefatory Statement.

Dated at Bethesda, Md., this 2nd day of May 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79–15861 Filed 5–18–79; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total or 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list shoud be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the

publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447–6202

Revisions

Economics, Statistics, and Cooperatives Service,
*Livestock Receipts and Prices
Monthly,
Livestock auctions, comm. firms and slaughter plants, 2,520 responses; 1,260 hours
Charles A. Filett, 395–5080

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—633–8477

Revisions

Refiners Monthly Cost Allocation Report
EIA–14
Monthly
Refiners of crude oil, 3,180 responses; 50,880 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755–5190

New Forms

Administration (Office of Ass't Sec'y)
Title I Monthly Statement Reconcilement of Insurance, Changes
HUD 646
Monthly
HUD approved financial institutions (T–I), 84,000 responses; 42,000 hours
Arnold Strasser, 395–5080

Administration (Office of Ass't Sec'y)
Fee Reconcilement
FHA 1041
Monthly
HUD approved financial institutions, 210,000 responses; 105,000 hours
Arnold Strasser, 395–5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

Revisions

Occupational Safety and Health Administration
Quarterly Report of State Compliance and Standard Activity (Migrant Housing Inspections)
OSHA–120 and OSHA–120A and 124
Quarterly
OSHA State designees, 104 responses; 4,043 hours
Arnold Strasser, 395–5080

Extensions

Employment Standards Administration
*Notice to Deputy Commissioner That the Payment of Compensation Has Begun Without Awaiting Award
LS–206
On occasion
Insurance companies and self-insured employers, 1,053 responses; 38 hours
Arnold Strasser, 395–5080

Occupational Safety and Health Administration Occupational Safety and Health Complaint Form OSHA–7
On occasion any employee, 25,000 responses; 15,000 hours Arnold Strasser, 395–5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

New Forms

Federal Highway Administration Inspection, Repair and Maintenance of Commercial Motor Vehicles On occasion, motor car. and dri. of interest, mot. car. of prop. and passen. Susan B. Geiger, 395–5867

Revisions

Federal Aviation Administration *Safety Improvement Report/Counselor Activity Report FAA 8740–5 and 8740–6 On occasion the gen. avi. pub., E.G. pilots, fli instr., mechan., etc., 4,000 responses; 664 hours Susan B. Geiger, 395–5867

ACTION

Agency Clearance Officer—W. D. Baldridge—254–7845

New Forms

*Applicant Race/Ethnic Data Sheet On occasion VISTA and Peace Corps applicants, 26,000 responses; 260 hours, Barbara F. Young, 395–6132

Extensions

RSVP Descriptive Survey Single time project staff, advisory council, station super., 3,036 responses; 2,438 hours Barbara F. Young, 395–6132

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Sally E. Crocker—634–6983

Extensions

Equal Employment Opportunity Employer Information, Report EEO–1 SF–100 Annually Firms w/100+ and gov. contractors w/50+ employees, 50,000 responses; 1,000,000 hours C. Louis Kincannon, 395–3772

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—452–3512

Extensions

Confidential Report of Member Firm of Selected Securities Exchanges FR 240 Annually Brokers and dealers extending margin credit, 325 responses; 1,625 hours Susan B. Geiger, 395–5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2282

Extensions

State Veterans Home Project Planning Report, 10–1493 Annually State veterans homes, 40 responses; 80 hours David P. Caywood, 395–6140.

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–15794 Filed 5–18–79; 8:45 am]
BILLING CODE 3110–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79–070]

Chemical Transportation Advisory Committee, Subcommittee on Breakbulk, Containers and Bulk Solid Waterfront Facilities; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (pub. L. 92–463; 5 USC App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Breakbulk, Containers and Bulk Solid Waterfront Facilities to be held on Tuesday, June 12, 1979, beginning at 10:00 A.M., Room 6200, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. Report by Captain Gates, Subcommittee Chairman, on status of

Subcommittee proposals on waterfront facilities.

2. Open discussion on Subcommittee report.

3. Report by LCDR Bonekemper on status of Coast Guard Waterfront Facilities Task Force activities and status of Coast Guard rulemaking.

4. Open discussion.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, no later than the day before the meeting, LT. D. G. Dickman, c/o Commandant (G–WLE–1/73), U.S. Coast Guard, Washington, DC 20590, 202–426–1927. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May, 14, 1979.

F. P. Schubert,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79–15810 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–14–M

Federal Railroad Administration

Louisville & Nashville Railroad Co. Accident Near Crestview, Fla.; Informal conference

The Federal Railroad Administration (FRA), through its Railroad Safety Board, will hold an informal conference on Wednesday, May 30, 1979, concerning the Louisville & Nashville Railroad Company (L&N) train accident which occurred near Crestview, Florida, on April 8, 1979. The purpose of the conference will be to discuss the preliminary findings and analysis of causal factors contained in a draft FRA report on the accident.

Interested persons are invited to attend the conference and comment on the proposed findings and conclusions set forth in the draft report. Persons having relevant information that has not been previously made available to FRA in connection with the investigation are requested to submit that information at the conference. Written comments and analysis may also be submitted to the Secretary, Railroad Safety Board (RRS–3), Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590, by June 6, 1979.

Both the FRA and the National Transportation Safety Board (NTSB) have conducted extensive field investigations of this accident. In order to avoid any duplication of effort, FRA ordinarily does not issue a published report on any accident with respect to which the NTSB has decided to issue a full report. However, FRA has direct regulatory responsibilities which necessitate the early resolution of this investigation. The line segment on which the subject accident occurred is the only portion of the L&N system presently excluded from the operation of Emergency Order No. 11 (44 FR 8402, February 9, 1979; see 44 FR 21725, April 11, 1979). It is important that all available information be brought together at an early date in order to determine whether further action is required to protect the public safety on this line segment. The NTSB has not scheduled a public hearing on this matter. Therefore, FRA has elected to proceed its investigation to an early conclusion and conduct a conference open to the public at which further information or analysis can be received.

Copies of the draft accident investigation report will be available on May 24 and may be obtained from the Office of Standards and Procedures, FRA, Room 4414, 2100 Second Street, S.W., Washington, D.C. 20590. Telephone requests for copies of the draft report may be directed to the Director, Office of Standards and Procedures (202–426–0924).

The informal conference will be convened at 9:30 a.m. on Wednesday, May 30, 1979, in Room 2230, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. The conference will be a non-adversary proceeding conducted by the Railroad Safety Board with the participation of FRA staff and interested parties. Further procedures for the conduct of the conference may be announced by the presiding officer.

(Authority: 45 U.S.C. § 40; 49 U.S.C. § 1655(e)(1)(K); 45 U.S.C. 437; 49 CFR § 1.49.)

Issued in Washington, D.C. on May 18, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79–16017 Filed 5–18–79; 10:27 am]

BILLING CODE 4910–06–M

Materials Transportation Bureau

Technical Pipeline Safety Standards Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 USC App. 1), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee on June 12 thru 15, 1979, at 9 a.m. in the auditorium of the Transportation Systems Center, 55 Broadway, Cambridge, Massachusetts 02139.

The purpose of the meeting is to discuss a recently issued notice of proposed rulemaking (Docket No. OPSO–46, Notice 4) on the development of new safety standards for liquefied natural gas facilities (FR DOC. 79–4374) and (FR DOC. 79–9729).

Attendance is open to the public, but limited to the space available. With prior approval of the chairman of the Committee, members of the public may present oral statements related to the item scheduled for review. Due to the limited time available, each speaker who wishes to make an oral statement is requested to notify Ms. Barbara Smith, Room 6226, 2100 Second Street, S.W., Washington, D.C., telephone 202–426–2392, of the topics to be addressed and the time requested to address each topic. Each speaker is urged to be as brief as possible. The chairman may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

The opportunity for public participation at the meeting is intended to provide information for the Committee to consider in formulating its recommendations to the Materials Transportation Bureau. The opportunity is not intended as an extension of the time allowed for participation in Docket OPSO–46, Notice 4, which ended May 9, 1979.

Dated: May 14, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79–15567 Filed 5–18–79; 8:45 am]

BILLING CODE 4910–60–M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes on June 20, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act.

(49 CFR U.S.C. 1806; 49 CFR 1.53(e).)

Issued in Washington, D.C., on May 9, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-15563 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-60-M

New Application

Application No.	Applicant	Regulation(s) affected	Nature of application
8185-N	Liqui-Box Corp., Worthington, Ohio	49 CFR 178.211	To manufacture, mark and sell DOT Specification 12P packaging having inside two 2½ gallon Specification 2U containers for shipment for various hazardous materials. (Modes 1, 2, 3.)
8186-N	King-Seeley thermos Co., Kendallville, Ind	49 CFR 173.206	To authorize shipment of small quantities of sodium potassium contained in a thermostat as non-regulated. (Modes 1, 2, 3, 4.)
8187-N	PPG Industires, Inc., Pittsburgh, Pa	49 CFR 173.119(a)(3)	To authorize shipment of paint or lacquer thinning compounds with flash points 20° F or less in DOT Specification 17E 20/18 gauge drums having triple seamed top and bottom chimes (Mode 1.)
8188-N	Owens-Illinois, Toledo, Ohio	49 CFR 173.128(a)	To manufacture, mark and sell DOT Specification 34 reusable polyethylene containers of 30 gallon capacity for the shipment of paint, liquid. (Mode 1.)
8190-N	Ethyl Corp., Baton Rouge, La	49 CFR 173.245(a)(32)	To authorize shipment of dimethyl chlorothiophosphate as a corrosive liquid n.o.s. in DOT Specification 105A300W tank cars. (Mode 2.)
8191-N	Kay Fries, Inc., Stoney Point, N.Y	49 CFR 173.314	To return partially filled tank car containing anhydrous hydrogen chloride. (Mode 2.)
8193-N	U.S. Department of the Army, Washington, D.C	49 CFR 173.276(a)(2)	To authorize shipment of hydrazine anhydrous in DOT Specification 3E and 3A cylinders. (Modes 1, 4.)
8194-N	Pennwalt Corp., Philadelphia, Pa	49 CFR 178.205-17	to authorize the use of a one-piece, die-cut design closure lock for the DOT Specification 12B fiberboard box prescribed for organic peroxides. (Modes 1, 3.)
8195-N	McDonnell Douglas Corp., St. Louis, Mo	49 CFR Parts 173, Subparts D, E, F, and H.	To authorize use of non-DOT specification metal drum as outside container in lieu of prescribed DOT Specification fiberboard or wooden containers for shipments subject to § 178.6(b)(3). (Modes 1, 2, 3, 4.)
8196-N	E. I. du Pont de Nemours and Co., Inc., Wilmington, Del.	49 CFR 173.315(a)(1)	To authorize shipment of certain compressed gases (refrigerants) in non-DOT specification IMCO Type 5 portable tanks. (Modes 1, 3.)
8197-N	Container Corporation of America, Wilmington, Del	49 CFR 173.119, 173.221(a), 173.256, 173.264, 173.346, 173.347.	To manufacture, mark and sell a non-DOT Specification 35 gallon polyethylene drum tight-head, for shipment of various hazardous materials. (Modes 1, 2, 3.)
8198-N	Technicon Instruments Corp., Tarrytown, N.Y	49 CFR 172.101, 173.65, 175.3	To authorize shipment of a device containing minute quantities of picric acid, sodium hydroxide and non-regulated materials as flammable solid, n.o.s. (Modes 1, 2, 3, 4.)
8199-N	Dow Corning Corp., Midland, Mich	49 CFR 173.315	To authorize shipment of anhydrous hydrogen chloride in non-DOT specification tank motor vehicle. (Mode 1.)
8200-N	Fleming International, Airways, Miami, Fla	49 CFR 175.320	To transport Class A and Class C explosives either forbidden or in quantities greater than permitted for cargo-only aircraft. (Mode 4.)

Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes on June 5, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of Exemption
5716-X	Virginia Chemicals Inc., Portsmouth, Va..	5716
5749-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. [1].	5749
5778-X	Lif-O-Gen, Cambridge, Md.	5778
5895-X	Explosive Technology, Fairfield, Calif. [2].	5895
6016-X	Livingston Medical Products Co., Modesto, Calif..	6016
6016-X	S. J. Smith Company, Inc., Davenport, Iowa.	6016
6092-X	Fisher Scientific Co., Fair Lawn, N.J..	6092
6092-X	MC/B Manufacturing Chemists, Inc., Cincinnati, Ohio.	6092
6234-X	Pennwalt Corp., Philadelphia, Pa	5234
6253-X	Interpool, New York, N.Y.	6253
6296-X	Olin Chemicals Group, Stamford, Conn.	6296
6571-X	American LNG Co., Oak Brook, Ill	6571
6652-X	Airesearch Manufacturing Company of Arizona, Phoenix, Ariz. [3].	6652
6686-X	Chilton Metal Products Division, Chilton, Wis.	6686
6712-X	Air Products and Chemicals, Inc., Allentown, Pa.	6712
6757-X	FMC Corp., Phildelphia, Pa	6757
6769-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6769
6773-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6773
6864-X	Bacardi International Ltd., Hamilton, Bermuda [4].	6864
7035-X	Owens-Illinois, Toledo, Ohio [5]	7035
7046-X	J. T. Baker Chemical Co., Phillipsburg, N.J. [6].	7046
7208-X	National Aeronautics and Space Administration, Greenbelt, Md.	7208
7455-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	7455
7512-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7512
7520-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J.	7520
7690-X	Prestex Products Co., St. Paul, Minn.	7690
7909-X	Dow Chemical Co., Midland, Mich. [7]...	7909
7910-X	Union Carbide Corp., Bound Brook, N.J.	7910
7938-X	Bignier Schmid-Laurent, Ivry sur Seine, France.	7938
8049-X	U.S. Department of Defense, Washington, D.C. [8].	8049
8109-X	Lowaco S.A., Geneva, Switzerland [9]..	8109
8110-X	Fauvet-Girel, Paris, France [10]	8110
8189-X	Shell Oil Co., Houston, Tex. [11]	8189

[1] To authorize use of another tank motor vehicle with a design pressure of 250 psig. for hydrogen chloride gas mixture.

[2] To authorize shipment of a device similar to the jet-axe device presently authorized.

[3] To authorize nitrogen—helium gas mixture as an additional commodity.

[4] To authorize containers-on-flat-car service as an additional method of transportation by rail.

[5] Request modification of exemption to authorize shipment of paint in 55 gallon drums.

[6] Request authorization to ship perchloric acid as an additional commodity in DOT Specification MC-312 Cargo tank.

[7] Request alternate packing method using expanded foam end caps.

[8] To renew and to add the words "Class" and "Military" to the description on the label.

[9] To provide for cumene hydroperoxide as an additional commodity.

[10] To add new tanks identical to those previously authorized except for larger capacity.

[11] To extend the expiration date of the exemption, issued on an emergency basis, authorizing continued shipments of an organic phosphate compound, liquid in DOT specification tank motor vehicles and drums.

Application No.	Applicant	Parties to exemption
5112-P	U.S. Department of Defense, Washington, D.C. [1].	5112
6293-P	Hercules Inc., Wilmington, Del	6393
6712-P	Suburban Welders Supply Company Inc., Ashland, Mass.	6712
6820-P	T-Chem Products. Santa Fe Springs, Calif.	6820
7052-P	Sangamo Western, Inc., Atlanta, Ga..	7052
7052-P	Matsushita Battery Industrial Co., Ltd., Moriguchi—Osaka, Japan.	7052
7616-P	The Kansas City Southern Railway Company, Kansas City, Mo.	7616
7620-P	Pennwalt Corp., Philadelphia, Pa	7620
7924-P	Matsushita Battery Industrial Co., Ltd., Moriguchi—Osaka, Japan.	7924
7983-P	Matsushita Battery Industrial Co, Ltd., Moriguchi—Osaka, Japan.	7983
8005-P	Container Luzern, Mannheim, West Germany.	8005
8109-P	Transport International Containers, S.A., Paris, France.	8109
8110-P	Transport International Containers, S.A., Paris, France.	8110
8146-P	Rocket Research Company, Redmond, Wash..	8146
8159-P	Transport International Containers, S.A., Paris, France.	8159

[1] To become a party to the exemption and to expand on the point of origin listed in the exemption.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 10, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-15564 Filed 5-18-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 11-79]

Treasury Notes of May 31, 1981, Series T-1981

May 17, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of May 31, 1981, Series T-1981 (CUSIP No. 912827 JR 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated May 31, 1979, and will bear interest from that date, payable on a semiannual basis on November 30, 1979, and each subsequent 6 months on May 31 and November 30, until the principal becomes payable. They will mature May 31, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 22, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 21, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids

must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Thursday, May 31, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, May 29, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, May 25, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circluar) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226.

The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Treasury Securities—Treasury Announces Auction of Series T-1981 Notes

Supplementary statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-15929 Filed 5-18-79; 8:45 am]

BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 28972]

Burlington Northern, Inc.—Merger—Spokane, Portland & Seattle Railway Co., Exemption From Prior Approved Requirement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Burlington Northern, Inc. (BN) and the Spokane, Portland and Seattle Railway Company (SP&S) intend to merge into one corporate entity. They filed a petition on March 2, 1979, seeking exemption from 49 U.S.C. 11343–11347, which requires prior consideration and approval of the transaction by the Interstate Commerce Commission. BN and SP&S are seeking exemption from these sections under 49 U.S.C. 10505 on the basis that prior Commission review of the transaction is unnecessary.

DATES: Comments must be received on or before: June 20, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423. All written submissions will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202–275–7245.

SUPPLEMENTARY INFORMATION: BN and SP&S filed a petition for exemption under 49 U.S.C. 10505 on March 2, 1979, so that their merger could be exempted from the requirement of obtaining prior Commission approval under 49 U.S.C. 11343–11347.

BN and SP&S claim that the transaction will be a "paper merger," not affecting other carriers, railroad employees, shippers or existing operations of BN and SP&S. These assertions should be addressed in the comments.

The Transaction

BN is a Class I railroad. With its subsidiaries it owns and operates approximately 14,519 miles of main lines and 10,431 miles of branch lines for a system total of 24,950 miles. These lines are in California, Colorado, Idaho, Illinois, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Texas, Washington, Wisconsin, and Wyoming, and the Provinces of British Columbia and Manitoba, Canada. BN's principal routes extend from: (1) Chicago to Denver via Lincoln, NE; (2) Chicago to Seattle via Twin Cities and Spokane; (3) Lincoln, NE to Laurel, MT, via Alliance, NE; (4) Spokane to Portland; (5) Seattle to northern California via Portland, OR and Wishram, WA; and (6) Denver to Houston.

SP&S is a non-operating lessor railroad. It owns approximately 600 miles of track in Oregon and Washington. It generally extends from Portland, OR easterly to Spokane, WA and westerly to Astoria, OR. SP&S owns 100 percnet of the stock of the Oregon Electric Railway Company (OE), which operates approximately 185 miles of trackage from Eugene and Foster to Bowers Junction, OR. SP&S also owns all of the stock of the Oregon Trunk Railway Company (OT), which operates approximately 152 miles of trackage from Bend, OR to Wishram, WA.

BN was authorized to control SP&S and lease for 10 years the lines of railroad and other properties owned, used or operated by SP&S in *Great Northern Pac. & B. Lines, Merger-Great Northern*, 331 I.C.C. 228 (1967) (the Northern Lines Merger). Through the lease, BN was authorized to control the SP&S carrier subsidiaries (OE and OT). The lease was entered into on March 2, 1970, and will terminate on March 2, 1980

One objective of the Northern Lines Merger was to integrate the SP&S operations into BN through control and the lease. SP&S was not merged into BN at the time of the Northern Lines Merger because of (1) the potential use of $54,000,000 of SP&S bonds as a future financing vehicle for BN, and (2) the avoidance of a possible adverse tax impact.

BN leases all of the properties, franchise interests, and rights (real, personal, tangible or intangible) of SP&S except the franchise of SP&S to be a corporation, and corporate books and records (to the extent required to preserve its corporate existence and perform the lease).

Under the lease, BN pays rent consisting of all taxes, rentals, debt service, pensions, and other expenses otherwise payable by SP&S. BN is authorized to operate, manage, and control the SP&S property; determine and collect rates and charges; undertake capital improvements; acquire additional property; exercise all the SP&S rights, powers, and franchises; abandon, retire, sell or otherwise dispose of property; enforce claims; grant subleases or trackage rights; assume SP&S pension obligations; and pay all SP&S expenses, liabilities, obligations and claims. With regard to SP&S securities and investments, BN has all of the rights of SP&S. This includes the rights to dividends and interest, voting rights, and the right to sell or otherwise dispose of the securities and investments.

The Board of Trustees and the officers of SP&S are all officers of BN. SP&S has no other employees. BN owns 100 percent of the SP&S 400,000 shares of $100 per value capital stock, and 100 percent of the SP&S $42,710,000

outstanding First Mortgage 4 percent Gold Bonds due March 1, 1981.

BN proposes to merge SP&S into it, with BN the surviving corporation. BN believes that the adverse tax consequences that were an obstacle to an earlier merger can be overcome as a result of changes in BN's tax situation. In lieu of treating the bond discount as income in the year the bonds are canceled, BN can elect to reduce its basis in SP&S assets by an equivalent amount, indefinitely deferring a substantial portion of the tax liability. BN also has a substantial accumulation of unused investment tax credit which can be used to offset the income tax liability.

As a result of the merger, all SP&S's assets and property will vest in BN, and BN will assume all liabilities and obligations of SP&S. All outstanding capital stock and bonded indebtedness of SP&S , owned by BN, will be canceled. BN will issue no securities in connection with the merger. It will obtain direct control of OE and OT.

SP&S is operated by BN employees. No change in operations will result from the merger, and there will be no impact on other carriers, employees, shippers, or rail service.

Under the lease BN is responsible for maintenance, capital expenditures, and all expenses and obligations of SP&S. No increased financial obligations will accrue to BN as a result of the merger.

BN states that the merger benefits are limited to administrative and incidental savings resulting from corporate simplification. Separate record keeping, intercompany billing and accounting will be eliminated as well as the administrative burden of maintaining the separate corporate existence of SP&S.

The Statute

The merger of the properties of two carriers into one corporation requires the approval and authority of the Commission under 49 U.S.C. 11343. To seek Commission approval an application must be filed in compliance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 C.F.R. Part 1111 (1977) (Consolidation Procedures). BN has requested an exemption from 49 U.S.C. 11343 so that it will not have to file an application under the Consolidation Procedures.

We can exempt a matter related to a rail carrier under 49 U.S.C. 10505. This section provides:

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) Is not necessary to carry out the transportation policy of section 10101 of this title;

(2) Would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) Would serve little or no useful public purpose.

(b) the Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person , class, or transportation is necessary—

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

BN believes that this merger is a "paper transaction" resulting in a corporate simplification that will not impact shippers employees, other carriers, or the general public. It requests that the exemption be limited to this merger, acknowledging that after the merger BN would continue to be subject to Commission regulation. BN maintains that the application of the Commission's regulatory requirements to this transaction would result in an unreasonable expense and administrative burden.

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the requested exemption of the proposed transaction is that opportunity. All comments filed in response to this notice, along with BN's petition, will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553, 559.

This proceeding is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: May 7, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-15580 Filed 5-18-79; 8:45 am]

BILLING CODE 7035-01-M

[Exception No. 1 to Corrected Second Revised Service Order No. 1301]

Burlington Northern, Inc.; Boxcar Authorization

Pursuant to the authority vested in me by Section (a)(4) of Corrected Second Revised Service Order 1301, Burlington Northern Inc. Is authorized to use 40-ft. narrow-door plain boxcars owned by Canadian National Railways or by C P Rail from stations in States of North Dakota, South Dakota, and Minnesota destined to Duluth, Minnesota, and Superior, Wisconsin, subject to the following conditions:

1. Cars must be used in compliance with United States Customs regulations.

2. Cars must be used in compliance with Car Service Rules 1 and 2 adopted by the Commission in Docket Ex Parte No. 241.

3. Car Relocation Directives and Car Assistance Directives issued by the Car Service Division, Association of American Railroads, applicable to such cars remain fully in effect.

Effective May 1, 1979.
Expires May 15, 1979.

Issued at Washington, D.C., May 1, 1979.

Joel E. Burns,

Director, Bureau of Operations.

[FR Doc. 79-15797 Filed 5-18-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 36 Under Service Order No. 1344]

Canadian National Railways; Rerouting of Traffic

In the opinion of Robert S. Turkington, Agent, the Canadian National Railways is unable to transport promptly all traffic offered for movement via Emerson, Manitoba, Canada, and Noyes, Minnesota, because of flooding.

It is ordered: (a) *Rerouting traffic.* The Canadian National Railways being unable to transport promptly all traffic offered for movment to and from points in the United States, routed over that line, moving via Emerson, Manitoba, Canada and Noyes, Minnesota, because of flooding, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. This rerouting

applies only to the movement within the United States. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Acceptance of traffic in interchange.* In the event the Canadian National Railways cannot accept traffic in interchange from a connecting carrier, the delivering carrier, after establishing such condition, may reroute or divert the traffic via any available route.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concuurence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(e) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and betweeen said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Effective date.* This order shall become effective 9:00 a.m., April 26, 1979.

Expiration date. This order shall expire at 11:59 p.m., may 15, 1979, unless otherwise modified, changed or suspended.

This order 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. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 26, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-15798 Filed 5-18-79; 8:45 am]

BILLING CODE 7035-01-M

[Decisions Volume No. 49]

Permanent Authority Applications; Decision-Notice

Decided: May 14, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days, after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving only noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a)

[Formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number [1], Members.

H. G. Homme, Jr.,

Secretary.

MC 11207 (Sub-469F), filed February 13, 1979. Applicant: DEATON, INC., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar, (except in bulk), from Supreme, LA, to points in AL, FL, GA, and MS. (Hearing site: New Orleans, LA or Washington, DC.)*

MC 26377 (Sub-25F), filed February 7, 1979. Applicant: LEONARDO TRUCK LINES, INC., 511 South 1st Street, Selah, WA 98942. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* and *materials, equipment,* and *supplies* used in the manufacture and distribution of foods, between points in Benton, Chelan, and Yakima Counties, WA, on the one hand, and, on the other points in CA, AZ, OR, UT, NV, and ID. (Hearing site: Yakima, WA.)

MC 42487 (Sub-903F), filed February 8, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Kingsport, TN, and Bristol, TN serving no intermediate points: over U.S. Hwy 11–W. (Hearing site: Knoxville, TN.)

MC 60157 (Sub-28F), filed February 13, 1979. Applicant: C.A. WHITE TRUCKING CO., a corp., 5327 N. Central expressway, Suite 310, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles and pipe,* from the facilities of Fort Worth Pipe and Supply Co., at or ner Conroe, TX to points in the United States, including AK but excluding HI, and (2) *Materials, equipment and supplies* used in the Production, manufacture or distribution of the above named commodities, in the reverse direction. (Hearing site: Dallas or Fort Worth, TX.)

MC 61396 (Sub-367F), filed February 6, 1979. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement,* from (1) Knoxville, TN, and (2) the facilities of Penn-Dixie Industries, Inc., at or near Richard City, TN, to points in AL, AR, GA, FL, KY, MS, NC, SC, VA, and WV. (Hearing site: Pittsburgh, PA or Omaha, NE.)

Note.—Dual operations may be involved in this proceeding.

MC 65626 (Sub-34F), filed February 15, 1979. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, NY 14063. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, *such commodities* as are dealt in or used by grocery and food business houses, between the facilities of Ralston Purina Company at or near Dunkirk, NY, on the one hand, and, on the other, points in MD, NJ, OH, PA, and WV. (Hearing site: Buffalo, NY or Washington, DC.)

MC 69116 (Sub-219F), filed February 12, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wallboard,* from Meridian, MS, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

MC 69116 (Sub-220F), filed February 12, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe, plastic pipe fittings, and plastic building materials,* from the facilities of Certain Teed Corp., at Social Circle, GA, to points in DE, IL, IN, KY, MD, NY, NC, OH, PA, SC, and VA. (Hearing site: Chicago, IL.)

MC 69116 (Sub-221F), filed February 12, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *railway and locomotive car wheels,* from Keokuk, IA, to points in PA, OH, and WV. (Hearing site: Chicago, IL.)

MC 100666 (Sub-432F), filed February 8, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials,* and (2) *materials and supplies* used in the manufacture of the above named commodities, (except commodities in bulk, in tank vehicles), between the facilities of GAF Corporation in the United States (except AK and HI), on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 100666 (Sub-435F), filed February 9, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting (1) *construction materials*, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to traffic originating at or destined to facilities of The Celotex Corporation. (Hearing site: New Orleans, LA.)

MC 100666 (Sub-436F), filed February 12, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite clay* and *lignite coal*, from the facilities of American Colloid Co. in Big Horn, Weston and Crook Counties, WY, Phillips County, MT, Bowman County, ND, and Butte County, SD, to points in AR, LA, NM, OK, and TX. (Hearing Site: Dallas, TX.)

MC 105886 (Sub-33F), filed February 13, 1979. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, Bessemer, PA 16112. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from Winfield Township, Butler County, PA, to points in MD, OH, WV, and NY. (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 107496 (Sub-1188F), filed February 9, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grease, non-edible oils and tallow* (1) from St. Joseph, MO, to points in IL, KS, MO, OH, TN, and TX, (2) from Rockport, MO, to points in KS, and (3) between Sioux Falls, SD, and Estherville, IA, on the one hand, and, on the other points in IL, IA, MN, MO, NE, and WI. (Hearing site: Des Moines, IA or Kansas City, Mo.)

MC 109736 (Sub-45F), filed January 10, 1979. Applicant: CAPITOL BUS COMPANY, a corporation, 1061 South Cameron Street, P.O. Box 3343, Harrisburg, PA 17105. Representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, express, and newspapers, in the same vehicle with passengers, (1) between Harrisburg, PA, and the Baltimore-Washington International Airport, MD, from Harrisburg over Interstate Hwy 83 to junction Interstate Hwy 695, then over Interstate Hwy 695 to the Baltimore-Washington Parkway (MD Hwy 295), then over the Baltimore-Washington Parkway to junction MD Hwy 46, then over MD Hwy 46 to the Baltimore-Washington International Airport, and return over the same route, serving the intermediate points of Manchester and Springettsbury Townships, (York County, PA), and serving the junction of Interstate Hwy 83 and PA Hwy 114 and the junction of MD Hwy 46 and Baltimore-Washington Parkway for purposes of joinder only, (2) between the junction of Interstate Hwy 83 and PA Hwy 114, and the Capital City Airport in Harrisburg, PA, over PA Hwy 114, serving no intermediate points and serving the junction of Interstate Hwy 83 and PA Hwy 114 for purposes of joinder only, (3) between junction Interstate Hwy 83 and Interstate Hwy 76, and the junction of Interstate Hwy 76 and U.S. Hwy 15, over Interstate Hwy 76, serving no intermediate points, (4) between Harrisburg, PA, and the Harrisburg International Airport; from Harrisburg over Interstate Hwy 83 to junction Interstate Hwy 283, then over Interstate Hwy 283 to PA Hwy 283, then over PA Hwy 283 to Airport Access Road to Harrisburg International Airport, and return over the same route, serving the junction of Interstate Hwy 283 and Interstate Hwy 76 (Interchange No. 19) for purposes of joinder only, and (5) between the junction of Interstate Hwy 283 and Interstate 76, and the junction of Interstate Hwy 76 and Interstate Hwy 83, over Interstate Hwy 76, serving no intermediate points, restricted in (1) above to the transportation of traffic originating at or destined to the Baltimore-Washington International Airport. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 111956 (Sub-45F), filed November 3, 1978. Applicant: SUWAK TRUCKING COMPANY, a corporation, 1105 Fayette Street, Washington, PA 15301. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Washington, PA, and Mansfield, OH; from Washington over Interstate Hwy 79 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction PA Hwy 60, then over PA Hwy 60 to junction PA Hwy 51, then over PA Hwy 51 to the PA-OH State line, then over OH Hwy 14 to junction OH Hwy 14a, then over OH Hwy 14a to Salem, OH, and then (a) over U.S. Hwy 62 to Canton, OH, then over U.S. Hwy 30 to Mansfield, and (b) over OH Hwy 14a to Deerfield, OH, then over U.S. Hwy 224 to Akron, OH, then over Interstate Hwy 76 to its junction with U.S. Hwy 42, over U.S. Hwy 42 to Mansfield, (2) between Deerfield, OH, and Bryan, OH: from Deerfield over OH Hwy 14 to junction Interstate Hwy 80, then over Interstate Hwy 80 to U.S. Hwy 127, then over U.S. Hwy 127 to Bryan, and return over the same route, (3) between junction OH Hwy 14 and OH Hwy 7, and Mentor, OH; from junction OH Hwy 14 and OH Hwy 7 over OH Hwy 7 to Youngstown, OH, then over U.S. Hwy 422 (a) to junction OH Hwy 44, then over OH Hwy 44 to Mentor, and (b) to Cleveland, OH, then over OH Hwy 2 to Mentor, and return over the same route, (4) between junction U.S. Hwys 42 and 224 near Lodi, OH, and Defiance, OH, from junction U.S. Hwys 42 and 224 over U.S. Hwy 224 to Ottawa, OH, then over OH Hwy 15 to Defiance, and return over the same route, (5) between Cleveland and Mansfield, OH, over Interstate Hwy 71, (6) between Cleveland and Dover, OH, over Interstate Hwy 77, (7) between Sandusky and Ashland, OH; over U.S. Hwy 250, (8) between junction Interstate Hwy 79 and U.S. Hwy 30, and Ashtabula, OH, from junction Interstate Hwy 79 and U.S. Hwy 30 over U.S. Hwy 30 to OH Hwy 11, then over OH Hwy 11 to Ashtabula, and return over the same route, (9) between Washington, PA, and Canton, OH; from Washington over PA Hwy 18 to U.S. Hwy 22, then over U.S. Hwy 22 to Steubenville, OH, then over OH Hwy 43 to Canton, and return over the same route, (10) between Washington, PA, and Wooster, OH; from Washington over Interstate Hwy 70 to Bridgeport, OH, then over U.S. Hwy 250 to Wooster, and return over the same route, (11) between Defiance, OH, and Antwerp, OH, over U.S. Hwy 24, (12) between Toledo and Defiance, OH, over U.S. Hwy 24, (13) between Mansfield and Van Wert, OH, over U.S. 30 serving in (1)–(13) above, all intermediate points in Ohio and those points in OH on and north of U.S. Hwy 250 and U.S. Hwy 30 as off-route points.

Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of carrier's certificate in MC–111956 Sub 22. (Hearing site: Pittsburgh, PA, or Washington, DC)

Note.—The purpose of this application is to convert applicant's existing irregular-route authority to regular-route authority.

MC 112627 (Sub-33F), filed February 16, 1979. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *alcoholic beverages*, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of alcoholic beverages, between Peoria, IL, on the one hand, and on the other, points in CT, NJ, NY, and PA. Restricted in (1) and (2) above against the transportation of commodities in bulk. (Hearing site: Chicago, IL or Buffalo, NY.)

MC 113666 (Sub-151F), filed February 12, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between the facilities of Allegheny Ludlum Steel Corporation at (1) Bagdad, (2) Brackenridge, and (3) West Leechburg, PA, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, MO, NY, NC, OH, and TN. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113666 (Sub-153F), filed February 12, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *grouting compounds*, and (2) *materials and supplies* used in the production and installation of the above named commodities, between Wilmington, DE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114457 (Sub-477F), filed February 6, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *containers, container closures, and materials, equipment and supplies* used in the manufacture and distribution of containers (except commodities in bulk), between the facilities of National Can Corporation at or near (1) Danbury and Ridgebury, CT, (2) Piscataway and Edison, NJ, (3) Fogelsville, Fairless Hills and Hanover, PA, (4) Baltimore, Cambridge and Sparrows Point, MD, and (5) Maspeth, L.I., NY, on the one hand, and, on the other, points in OH, MI, IN, WI, IL, MN, IA, MO, KS, OK, TX, LA and AR. (Hearing site: Newark, NJ or St. Paul, MN.)

MC 114457 (Sub-478F), filed February 7, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (A) *paper and paper products and* (B) *materials, supplies and equipment used in the production and distribution of paper and paper products*, between the facilities of Union Camp Corporation at or near (1) Tifton and Savannah, GA, and (2) Richmond, VA, on the one hand, and on the other, points in the United States (except AK and HI), restricted against the transportation of commodities in bulk. (Hearing site: Newark, NJ or St. Paul, MN.)

MC 115826 (Sub-390F), filed January 29, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in foreign commerce, over irregular routes, transporting *bananas* from ports of entry in TX, LA, MS and AL, to points in CO, restricted to traffic having a prior movement by water. (Hearing site: Denver, CO.)

MC 115826 (Sub-398F), filed February 8, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *plastic film and sheeting* (other than cellulose) and (b) *articles, materials, supplies and equipment* used in the manufacture and distribution of the commodities in (a) (except commodities in bulk), between those points in the United States in and west of TX, OK, KS, NE, ND, and SD (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Borden Chemical Division of Borden, Inc., 2 (a) *paper and paper products, plastic and plastic products*, and (b) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (2 (a)) between points in the United States (except AK and HI), restricted to transportation of traffic originating at or destined to the facilities of Union Camp Corporation. (Hearing site: Denver, CO.)

MC 119657 (Sub-23F), filed February 12, 1979. Applicant: GEORGE TRANSIT LINE, INC., 760–764 N.E. 47th Place, Des Moines, IA 50313. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural pesticides* (except in bulk, in tank vehicles), between points in IL, IN, IA, MI, MN, MO, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

MC 119726 (Sub-157F), filed January 22, 1979. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, container closures, glassware, paper, packaging products, container components, scrap materials, and absorbents*, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of the commodities named in (1) above, (except commodities in bulk, in tank vehicles, and those which because of size or weight require the use of special equipment), between points in the United States (except AK and HI). (Hearing site: Indianapolis, IN.)

MC 123407 (Sub-538F), filed February 12, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *Common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between the facilities of Tex-Ark Joist Co. at or near Hope, AR on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Tex-Ark Joist Co. (Hearing site: Washington, DC.)

MC 125996 (Sub-73F), filed February 6, 1979 Applicant: ROAD RUNNER TRUCKING, INC., 2200 South 400 West, Salt Lake City, UT 84115. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *Common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are distributed by manufacturers of explosives, and *materials and supplies* used in the manufacture and distribution of explosives, oxidizers, and boosters (except commodities in bulk) (a) between W. Jordan and Lehi, UT, Bonne Terre, Mo, Plymouth, IN, and Biwabik, MN, and (b) between W. Jordan and Lehi, UT and Plymounth, IN, on the one hand, and, on the other, points in the United States (except AK and HI). The grant of authority here, to the extent it authorizes the transportation of dangerous commodities is limited in point of time to a period of five (5) years from the date of issuance. (Hearing site: Salt Lake City, UT or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 125996 (Sub-74F), filed February 12, 1979. Applicant: ROAD RUNNER TRUCKING, INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *Common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities Armour and Company at or near Omaha, NE, Worthington, MN, and Huron, SD, to points in AZ, CA, NM, OR, WA, UT, NV, ID, MT, and WY , and (2) the commodities named in (1) above, (except foodstuffs), and *foodstuffs,* from the facilities of Geo. A. Hormel & Co. at or near Austin and St. Paul, MN, and Fort Dodge and Ottumwa, IA, to points in AZ, CA, CO, and UT, restricted in (1) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE, or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 134427 (Sub-4F), filed February 12, 1979. Applicant: JOHN T. SISK, Route 2, Box 182–B, Culpeper, VA 22701. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flour,* in bulk, from Culpeper, VA, to points in CT and NY, under continuing contract(s) with Seaboard Allied Milling Corporation of Kansas City, MO. (Hearing site: Richmond, VA or Washington, DC.)

Note.—Dual operations may be involved.

MC 134477 (Sub-329F), filed February 14, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Marshall, MO, to points in DE, CT, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or St. Paul, MN.)

MC 135797 (Sub-179F), filed February 6, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tools* from the facilities of Brunner Industries at Springdale, AR, to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture and distribution of tools, in the reverse direction. (Hearing site: Little Rock, AR.)

MC 136086 (Sub-12F), filed July 28, 1978, previously noticed in the **Federal Register** issue of November 2, 1978. Applicant: GUILEY TRUCKING, INC., 8615 Pecan Avenue, Fontana, CA 92335. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel roofing, steel siding,* and *steel floor decking,* (a) from the facilities of Verco Manufacturing, Inc., at Phoenix, AZ, to points in OR, WA, and WY, (b) from the facilities of Verco Manufacturing, Inc., at Fontana, CA, to points in CO, NM, and TX, and (c) from the facilities of Verco Manufacturing, Inc., at Everett, WA, to points in AZ, CA, CO, NM, OR, TX, UT, and WY; (2) *coiled sheet steel,* (a) from points in CA, TX, and WA, to the facilities of Verco Manufacturing, Inc., at (i) Everett, WA, and (ii) Fontana, CA, and (b) from points in TX and WA, to the facilities of Verco Manufacturing, Inc., at Phoenix, AZ; and (3) *dunnage,* from points in WA, OR, ID, and UT, to the facilities of Verco Manufacturing, Inc., at (a) Phoenix, AZ, (b) Fontana, CA, and (c) Everett, WA, under continuing contract(s) in (1), (2), and (3) above, with Verco Manufacturing, Inc., of Phoenix, AZ. (Hearing site: Los Angeles, CA.)

Note.—This republication is to show CO as a destination point instead of CD in (1)(c).

MC 138126 (Sub-35F), filed February 8, 1979. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Federalsburg, MD 21632. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (A) *foodstuffs,* from the facilities of Campbell Soup Company at or near (1) Milford and Clayton, DE, and (2) Salisbury, Pocomoke City and Baltimore, MD; and Downingtown, PA, to points in AR, FL, GA, NE and TX; and (B) *frozen foodstuffs,* from the facilities of Campbell Soup Company at or near Omaha, NE, to Salisbury, MD, and Milford, DE. (Hearing site: Washington, DC.)

MC 139577 (Sub-32F), filed February 8, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Freisland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, between the facilities of the Ralston Purina Company at or near Clinton and Davenport, IA, and Louisville, KY on the one hand, and, on the other, points in IN, IL, IA, KY, MI, MN, MO, OH, TN, and WI. (Hearing site: St. Louis, MO.)

MC 140676 (Sub-14F), filed February 12, 1979. Applicant: POWELL TRUCKING COMPANY, INC., Route 3, Box 13, Sumrall, MS 39482. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *contract carrier,* by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting *posts, poles, and pilings,* from the facilities of Crown-Zellerbach Corporation at (1) Gulfport, MS, and (2) Mobile, AL, to points in CO, GA, MA, MD, ME, NC, NJ, NM, NY, OK, SC, TX, VA, VT, and WV, under continuing contract(s) with Crown-Zellerbach Corporation of Bogalusa, LA., (Hearing site: Jackson, MS, or New Orleans, LA.)

MC 141597 (Sub-7F), filed February 8, 1979. Applicant: RIVERSIDE TRUCK LINE, INC., 919 4th Avenue South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near (1) Denison, (2) Iowa Falls, and (3) Carroll, IA, and (4) Crete, NE, to points in AZ, CA, CO, ID, MT, NV, OR, UT, and WA, under continuing contract(s) with Farmland Foods, Inc., of Denison, IA. (Hearing site: Omaha, NE.)

MC 142956 (Sub-2F), filed February 9, 1979. Applicant: M & S TRUCKING CO., INC., 1430 North Clarence, Wichita, KS 67202. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beef carcasses,* from Mankato, KS, to points in CT, IL, IN, ME, MD, MA, NH, NJ, NY, OH, PA, RI and DC, under continuing contract(s) with Dubuque Packing Company of Mankato, KS. (Hearing site: Kansas City, MO.)

MC 143776 (Sub-2F), filed February 7, 1979. Applicant: C. D. B., INCORPORATED, 5170 36th Street, S.E., Grand Rapids, MI 49508. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals and plastic products,* (except commodities in bulk, in tank vehicles, and expanded plastic products), and (2) *equipment and supplies* used in the manufacture and distribution of commodities named in (1) above, from the facilities of The Dow Chemical Company at Midland, MI, to Atlanta, GA, Los Angeles and Oakland, CA, Linden, NJ, and Houston and Dallas, TX. (Hearing site: Lansing or Grand Rapids, MI.)

Note.—Dual operations may be involved.

MC 144326 (Sub-10F), filed February 7, 1979. Applicant: RICHARDSON TRUCKING, INC., d/b/a/ TRIARC TRANSPORT, 903 37th Avenue Court, Greeley, CO 80631. Representative: William J. Lippman, 50 South Steele Street—Suite 330, Denver, CO 80209. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *waterbed bedding,* from the facilities of Hydro-Dynamics at Lake Havasu City, AZ, to the facilities of Bruce Carlisle d/b/a/ NCF Distributing at Greeley, CO. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 144696 (Sub-4F), filed February 12, 1979. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom Street, Zeeland, MI 49464. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods,* from points in Oceana, Ionia and Kent Counties, MI, to Kansas City, KS, and Chicago, IL, and points in Salem, Gloucester and Cumberland Counties, NJ, under a continuing contracts with Seabrook Foods, Inc., of Fresno, CA. (Hearing site: Grand Rapids, MI.)

MC 144776 (Sub-6F), filed February 2, 1979. Applicant: APACHE TRANSPORT, INC., 833 Warner St., SW, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles and plastic materials,* (except commodities in bulk), and (2) *equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Mobil Chemical Company, Plastics Division, at points in GA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Company, Plastics Division. (Hearing site: Atlanta, GA.)

MC 145207 (Sub-1F), filed February 9, 1979. Applicant: BOWERS TRUCKING, a corporation, 2892 Foothill Boulevard, Oroville, CA 95965. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. To Operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *precoated and prefinished plywood paneling and wooden molding,* between points in Los Angeles County, CA, on the one hand, and, on the other, points in OK, TX, KS, CO, NM, and ID, under a continuing contract(s) with National Plywood, Inc. of Long Beach, CA. (Hearing site: Los Angeles, CA.)

MC 145276 (Sub-4F), filed February 6, 1979. Applicant: MINNESOTA EXPRESS, INC., P.O. Box 427, Willmar, MN 56201. Representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. To Operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fresh meat* from Howard, SD, to St. Cloud, MN. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 145406 (Sub-15F), filed February 12, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To Operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products* and *articles distributed by meat-packing houses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation or near (1) Albert Lea, MN and (2) Cedar Rapids, Cherokee, and Des Moines, IA, to points to CA. (Hearing site: Dallas, TX or Kansas City, MO.)

MC 144407 (Sub-8F), filed February 13, 1979. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton, Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To Operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *nonalcholic beverages and concentrates,* not forzen, and *equipment, materials and supplies,* used in the manufacture and distribution of the above named commodities (except in bulk), and (2) *fruit salads,* in mixed loads with the commodities described in (1) above, between the facilities of Doric Foods Corporation at or near Anaheim, CA, on the one hand, and, on the other, points in AR, CO, ID, MT, NV, NM, OR, TX, UT, and WA. (Hearing site: San Francisco, CA or Washington, DC.)

Note.—Dual operations may be involved.

MC 145406 (Sub-16F), filed February 14, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A, B, & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins and commodities in bulk), from the facilities of John Morrell & Co., at or near (1) Sioux Falls, SD, (2) Estherville and Sioux City, IA, (3) Worthington, MN, (4) Arkansas City and Wichita, KS, (5) East St. Louis, IL, and (6) St. Louis, MO, to points in AL, AZ, CA, CT, DE, FL, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NH, NJ, NY, NM, NC, OH, OK, PA, RI, SC, TN, TX, WI, and DC. (Hearing site: Chicago, IL.)

MC 146327F, filed February 12, 1979. Applicant: UNITED TRUCKING COMPANY, a corporation, P.O. Box 1158, Miles City, MT 59301. Representative: Joe Gerbase, 100 Transwestern Bldg., Billings, MT 59101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ammonium nitrate*, from Hardin, MT, points in WY, ND, and SD, to (Hearing site: Billings, MT.)

MC 146346F, filed February 6, 1979. Applicant: C. R. TARR, INC., RFD #1, Pomfret Center, Pomfret, CT 06259. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, and *wood chips*, between points in CT, MA and RI, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, and MD, under continuing contract(s) with Northland Forest Products of Kingston, NH, Rossco Forest Products, of Burlington, VT, Bear Paw Timber Corp, of Fryeburg, ME, Hull Forest Products, Inc. of Pomfret Center, CT, Bridge Manufacturing Co., of Enfield, CT, Rossi Corp, of Higganum, CT and Baillie Lumber Co., of Hamburg, NY. (Hearing site: Hartford, CT or Washington, DC.)

MC 146467F, filed February 1, 1979. Applicant: TRIAD MOTOR LINES, INC., Route 8, Box 374, Burlington, NC 27215. Representative: L. C. Major, Jr., Suite 400, 6121 Lincolna Road, Alexandria, VA 22312. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Alamance County, NC, and extending to points in AL, FL, GA, IN, KY, LA, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Burlington, NC or Durham, NC.)

MC 146476F, filed February 12, 1979. Applicant: BADDER BUS SERVICE LIMITED, R.R. 1, Thamesville, Ontario, Canada NOP 2KO. Representative: Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *passengers and their baggage*, in special and charter operations, in sightseeing and pleasure tours, beginning and ending at ports of entry on the international boundary line between the United States and Canada and extending to points in the United States, including AK, but excluding HI. (Hearing site: Buffalo, NY.)

MC 146286 (Sub-2F), filed February 12, 1979. Applicant: P & C TRUCKING, INC., 8011 Green Bay Road, Kenosha, WI 53412. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *precast concrete* and *concrete products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Modern Building Materials, Inc., at or near Kenosha, WI, on the one hand, and, on the other, points in IL, IA, and IN, under continuing contract(s) with Modern Building Materials, Inc., of Kenosha, WI. (Hearing site: Milwaukee, WI.)

MC 146487F, filed February 12, 1979. Applicant: J. W. RIGGINS, P.O. Box 2509, 561 S. York, Denver, CO 80201. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture and distribution of products manfactured by foundries (except commodities in bulk), (1) from points in PA, OH, MI, IN, IL, WI, CA, AL, IA, WY, WA, MO, TX, and OR, to the facilities of Western Industrial Supply Company, at or near Englewood, CO, (2) from points in PA, OH, WI, IL, MI, TX, CA, IA, WA, CO, OR, WY, and SD, to the facilities of Larsen Foundry Supply at or near Salt Lake City, UT, and (3) between the facilities of Western Industrial Supply Company at or near Englewood, CO, and the facilities of United Western Supply Companies at or near (1) Phoenix, AZ, (2) El Paso, TX, (3) Berkley, CA, and (4) Seattle, WA, and the facilities of Spanish Forks Foundry at or near Spanish Forks, UT. (Hearing site: Denver, CO, or Omaha, NE.)

[FR Doc. 79-15799 Filed 5-18-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 99
Monday, May 21, 1979

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

1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 94, May 14, 1979, pages 38148 and 28149.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., May 17, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Application for Permission to Convert to a Federal Chartered Stock Association—North Carolina Federal Savings and Loan Association, Albemarle, N.C.

No. 239, May 17, 1979.

[S–1014–79 Filed 5–17–79; 3:45 pm]

BILLING CODE 6720–01–M

2

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 16, 1979; 44 FR 28747.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 17, 1979.

CHANGE IN THE MEETING: Time of meeting changed from 10 a.m. to 11 a.m. on May 17, 1979.

[S–1012–79 Filed 5–17–79; 3:04 pm]

BILLING CODE 6730–01–M

3

NATIONAL SCIENCE BOARD.

DATE AND TIME: 1 p.m., May 17, 1979. Open session; 9 a.m., May 18, 1979. Closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Change in agenda.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Addition to agenda: "Discussion of proposed reorganization of certain parts of the National Science Foundation".

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 632–5840.

[S–1011–79 Filed 5–17–79; 12:13 pm]

BILLING CODE 7555–01–M

4

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 11, 1979; 44 FR 27808.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, May 7, 1979.

CHANGES IN MEETING: Additional items.

The following additional item was considered at a closed meeting held on Tuesday, May 15, 1979, at 10 a.m.:

Consideration of amicus participation.

The following additional items will be considered at a closed meeting scheduled for Thursday, May 17, 1979, immediately following the 4 p.m. open meeting:

Formal order of investigation.
Subpoena enforcement action.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

May 16, 1979.

[S–1010–79 Filed 5–17–79; 9:07 am]

BILLING CODE 8010–01–M

5

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., Thursday, May 24, 1979.

PLACE: Conference room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTER FOR DISCUSSION: 1. Preliminary rate review.

MATTERS FOR ACTION:

Personnel Actions

1. Change of status for Roy H. Dunham from Director of Engineering Design to Manager of Engineering Design, Knoxville, Tenn.

2. Change of status for Horace H. Mull from Director of Construction to Manager of Construction, Knoxville, Tenn.

3. Change of status for James R. Durall from Power Financing Officer to Assistant Manager of Power (Finance and Budget), Chattanooga, Tenn.

4. Change of status for Jimmy L. Cross from Chief, Power Strategic Planning Staff, to Executive Assistant to the Manager of Power, Chattanooga, Tenn.

Note.—These items were approved by individual Board members. This would give formal ratification to the Board's action.

Consulting and Personal Services Contracts

1. Personal services contract with Kenneth D. McCasland, Sr., for services as a member and Chairman of the TVA Board of Contract Appeals as required by the Contract Disputes Act of 1978.

Purchase Awards

1. Req. No. 156488—Rebuild Baldwin locomotive at Kingston Steam Plant.

2. Req. No. 824841—Structural steel reactor coolant system supports and accessories, embedments, and shock suppressor systems for Yellow Creek Nuclear Plant.

3. Req. No. 825419—Insulated conductors—signal cable—for Hartsville and Phipps Bend Nuclear Plants.

4. Amendment to Contracts 73C60–75210 and 75K60–84840–1 for nuclear steam supply systems for Hartsville and Phipps Bend Nuclear Plants.

Note.—Item 4 was approved by individual Board members. This would give formal ratification to the Board's action.

Project Authorizations

1. No. 3438—Acquire site and design and construct the Morristown, Tennessee, Power Service Center.

2. No. 3440—Chlorine Minimization/Optimization Project relating to studies at Kingston, Allen, Shawnee, and Paradise Steam Plants.

3. No. 3422—Bellefonte and Hartsville/Phipps Bend Nuclear Plant simulators for the Power Production Training Center.

Power Items

1. Deed conveying to Upper Cumberland Electric Membership Corporation a 0.71–acre portion of TVA's Algood 69–kV Substation site located in Putnam County, Tennessee.

2. Lease and Amendatory Agreement with Hickman-Fulton Counties Rural Electric Cooperative Corporation covering arrangements for consolidated 69–kV delivery at TVA's Clinton 161–kV Substation.

3. Lease and Amendatory Agreement with Marshall-DeKalb Electric Cooperative covering arrangements for separate 46-kV deliveries at TVA's Albertville 161-kV and Geraldine 46-kV Substations.

Real Property Transactions

1. Modification of deed to 16.7-acre tract of land in the little Bear Creek Club Site subdivision on Kentucky Reservoir—Tract XGIR-3:9.
2. Sale of certain Tims Ford Reservoir land at public auction—Tract XTMFR-8.
3. Filing of condemnation suits.

Unclassified

1. Proposed sale of surplus property—Various items of heavy equipment at Paradise Steam Plant.
2. Sale of surplus property used in mining of coal at the Fabius Mine in Northern Alabama and the Eads Mine in Southern Illinois.
3. Adoption of supplemental resolution authorizing 1979 Series B Bonds.
4. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1979 Series B Bonds.

DATED: May 17, 1979.

CONTACT PERSON FOR MORE INFORMATION: James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 566-1401.

[S-1013-79 Filed 5-17-79; 3:27 pm]

BILLING CODE 8120-01-M

federal register

Monday
May 21, 1979

Part II

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants

Notice of Status Review for Wildlife Classified as Endangered or Threatened Prior to 1975

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Notice of Status Review for Wildlife Classified as Endangered or Threatened Prior to 1975

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Status Review.

SUMMARY: Section 4(c)(4) of the Endangered Species Act of 1973, as amended, requires the Service to conduct a status review of all species listed at least once every five years. The purpose of this section is to insure that the listing accurately reflects the most current status of the listed species. In order to aid the Service in discharging this responsibility, the Director is requesting comments and appropriate data from any party which could potentially alter the status for the selected species of endangered or threatened wildlife listed below. If as a result of this review, the present classification of endangered or threatened does not comport with current evidence, the Secretary is authorized to change such classification accordingly.

DATES: Comments must be received no later than August 20, 1979.

ADDRESSES: Submit comments to Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours (7:45 a.m. to 4:15 p.m.) at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (Phone 703/235-2771).

SUPPLEMENTARY INFORMATION:

Background: The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 50 CFR 17.12 (plants). The most recent such lists were published in the **Federal Register** of January 17, 1979 (44 FR 3636-3654). The Endangered Species Act of 1973, as amended, requires the Service to conduct a review of each listed species at least once every five years. Species which are to be considered under the present review are listed below. Species listed before 1975 which subsequently have been affected by rules reclassifying all or significant parts of their populations are not included in this notice. Most of the species to be reviewed under this notice had been classified as endangered under previous legislation and were included in the present lists under the provisions of section 4(c)(3) of the Act.

Definitions: The following definitions are provided to assist those persons who contemplate submitting information regarding the status of the species listed below:

(1) "Critical Habitat" means the specific areas within the geographical area occupied by an endangered or threatened species on which are found those physical features (a) essential to its conservation, and (b) which may require special management considerations or protection, as well as specific areas outside the geographical area occupied by the species that the Secretary of the Interior determines are essential for its conservation. These areas exclude existing man-made structures or settlements not essential to the normal needs or survival of the listed species.

The defined area of land, water, and airspace stated for each zone or area of critical habitat will, by necessity, include some areas that are not essential to the survival and conservation of the species. The biological or physical constitutent elements *within* the defined area of critical habitat determine the specific sites or habitats that are essential to the species. Examples of such features are as follows: roost site, nesting site, feeding site, seasonal wetland or dryland, water quality or quantity, host animal or plant, pollinator, tide, geologic formation, and specific soil type.

The Director considers the physiological, behavioral, ecological, and evolutionary requirements for the survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(a) Space for individual and population growth and for normal behavior;

(b) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(c) Cover or shelter;

(d) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and, generally,

(e) Habitats that are protected from disturbances or are representative of the geographical distributions of the listed species.

(2) "Endangered" means any species which is in danger of extinction throughout all or a significant portion of its range.

(3) "Species" includes any biological species, or subspecies, of fish or wildlife or plants, and any distinct population segment of any species or subspecies of a vertebrate which are capable of interbreeding when mature. A species is determined to be endangered or threatened because of any of the following factors:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, sporting, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms, or

(e) Other natural or man-made factors affecting its continued existence.

(4) "Threatened" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Effects of Status Review:

If substantial evidence is already available to the Service or is presented by any party for one or more below listed species, the Director intends to propose new rules that would do any of the following: a) reclassify a species from endangered to threatened, b) reclassify a species from threatened to endangered, or c) remove a species from the List of Endangered or Threatened Wildlife. Distinct geographic populations of vertebrate species as well as subspecies of all wildlife species may be proposed for either separate reclassification to a different status than the presently listed species or removal from the list. If no substantial data is available or presented to suggest a status change for a particular species, then the next formal status review will be announced no later than five years hence.

Once a species has been determined to be threatened or endangered, the Act imposes certain restrictions on activities involving the species. Generally, it is unlawful for a person subject to the jurisdiction of the United States to take an endangered species or to engage in foreign and domestic commerce involving an endangered species or its parts or products, 16 U.S.C. 1538(a)(1); 50 CFR 17.21. The Secretary has discretion in determining whether the taking and commercial restrictions will be made applicable to threatened species, 16 U.S.C. 1533(d). As a general rule, the

taking and commerce restrictions applicable to endangered species are made applicable to threatened species by 50 CFR 17.31. However, the Secretary does promulgate special rules for some species, varying the taking and commerce prohibitions. See, *e.g.*, 50 CFR 17.40(b), Special Rule for Grizzly Bears.

Public comments solicited: The Director requests any comments concerning the status of the below species be sent to him. Comments from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party are hereby solicited. Such comments must be in writing and contain the name, signature, address, telephone number, and the association, institution, or business, if any, of the party. Receipt of all comments will be acknowledged in writing by the Service. If significant data are available, warranting a change in a species' classification under the Act, the Director will propose a rule to modify the present status of the listed species. In order to determine if the comments contain significant data, the Director will consider whether the document:

(1) Clearly indicates the scientific and any common name of the species involved, and, if prudent, the precise area recommended as critical habitat;

(2) Contains a detailed narrative describing, as appropriate, the past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate geographic population; the particular threatening factors affecting the species; and, if appropriate, the features and importance of any critical habitat;

(3) Is accompanied, as appropriate, by supporting documentation, such as maps, a list of bibliographic references, reprints of pertinent publications, or copies of written reports or letters from authorities; and

(4) Does not essentially repeat scientific, commercial, or other relevant information already cited by the Director in an earlier proposal or notice of review.

The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service (Phone: 703/235–1975).

BILLING CODE 4310-55-M

List of Species - 1979 Status Review

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
MAMMALS:							
Anoa	Bubalus (Anoa) depressicornis	N/A	Indonesia	Entire	E	3	N/A
Armadillo, pink fairy	Chlamyphorus truncatus	N/A	Argentina	Entire	E	3	N/A
Ass, African wild	Equus asinus	Somalia, Sudan, Ethiopia	Somalia, Sudan, Ethiopia	Entire	E	3	N/A
Ass, Asian wild	Equus hemionus	N/A	Southwestern and Central Asia	Entire	E	3	N/A
Avahis	Avahi spp. (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Aye-Aye	Daubentonia madagascariensis	N/A	Malagasy Republic (Madagascar)	Entire	E	3	N/A
Bandicoot, barred	Perameles bougainville	N/A	Australia	Entire	E	4	N/A
Bandicoot, desert	Perameles eremiana	N/A	Australia	Entire	E	6	N/A
Bandicoot, lesser rabbit	Macrotis leucura	N/A	Australia	Entire	E	4	N/A
Bandicoot, pig-footed	Chaeropus ecaudatus	N/A	Australia	Entire	E	4	N/A
Bandicoot, rabbit	Macrotis lagotis	N/A	Australia	Entire	E	4	N/A
Banteng	Bos banteng	N/A	Southeast Asia	Entire	E	4	N/A
Bat, Hawaiian hoary	Lasiurus cinereus semotus	N/A	USA (Hawaii)	Entire	E	2	N/A
Bat, Indiana	Myotis sodalis	N/A	Eastern and Middle-western USA	Entire	E	1	N/A
Bear, Mexican grizzly	Ursus arctos nelsoni	Mexico	Mexico	Entire	E	3	N/A
Bison, wood	Bison bison athabascae	N/A	Canada, western USA	Canada	E	3	N/A
Cat, tiger	Felis tigrina	N/A	Costa Rica to Northern South America	Entire	E	4	N/A
Cheetah	Acinonyx jubatus	N/A	Africa to India	Entire	E	3,5	N/A
Colobus, Zanaibar red	Colobus kirkii	N/A	Tanzania	Entire	E	4	N/A
Cougar, eastern	Felis concolor couguar	N/A	Eastern North America	Entire	E	6	N/A
Deer, Bawean	Axis (Hyelaphus) porcinus kuhli	N/A	Indonesia	Entire	E	3	N/A
Deer, Columbian white-tailed	Odocoileus virginianus leucurus	N/A	USA (Washington, Oregon)	Entire	E	1	N/A
Deer, Eld's brow-antlered	Cervus eldi	N/A	India, Southeast Asia	Entire	E	4	N/A
Deer, key	Odocoileus virginianus clavium	N/A	USA (Florida)	Entire	E	1	N/A
Deer, marsh	Blastocerus dichotomus	N/A	Argentina, Uruguay, Paraguay, Brazil	Entire	E	4	N/A
Deer, McNeill's	Cervus elaphus macneilli	N/A	China	Entire	E	4	N/A
Deer, Persian fallow	Dama dama mesopotamica	N/A	Iraq, Iran	Entire	E	3	N/A
Deer, swamp	Cervus duvauceli	N/A	India, Nepal	Entire	E	4	N/A
Dibbler	Antechinus apicalis	N/A	Australia	Entire	E	4	N/A
Dog, Asiatic wild (Dhole)	Cuon alpinus	N/A	Soviet Union, India	Entire	E	4	N/A
Dugong	Dugong dugon	N/A	East Africa to Ryukyu Islands including USA (Trust territories)	Entire	E	4	N/A
Ferret, black-footed	Mustela nigripes	N/A	USA (Western), Western Canada	Entire	E	1,3	N/A
Forester, Tasmanian (kangaroo)	Macropus giganteus tasmaniensis	N/A	Australia	Entire	E	6	N/A
Fox, Northern swift	Vulpes velox hebes	N/A	USA (Northern Plains), Canada	Canada	E	3	N/A
Fox, San Joaquin kit	Vulpes macrotis mutica	N/A	USA (California)	Entire	E	1	N/A
Gazelle, Clark's (Dibatag)	Ammodorcas clarkei	N/A	Somalia, Ethiopia	Entire	E	3	N/A
Gazelle, Cuvier's	Gazella cuvieri	N/A	Morocco, Tunisia	Entire	E	4	N/A
Gazelle, Mhorr	Gazella dama mhorr	N/A	Morocco	Entire	E	4	N/A
Gazelle, Moroccan (Dorcas)	Gazella dorcas massaesyla	N/A	Morocco, Algeria	Entire	E	4	N/A
Gazelle, Rio de Oro Dama	Gazella dama lozanoi	N/A	Spanish Sahara	Entire	E	4	N/A
Gazelle, slender-horned (Rhim)	Gazella leptoceros	N/A	Sudan, Algeria, Egypt, Libya	Entire	E	4	N/A
Gorilla	Gorilla gorilla	N/A	Central and Western Africa	Entire	E	4	N/A
Hartebeest, Swayne's	Alcelaphus buselaphus swaynei	N/A	Ethiopia	Entire	E	4	N/A
Hog, pygmy	Sus salvanius	N/A	India, Nepal, Bhutan, Sikkim	Entire	E	4	N/A
Hyena, Barbary	Hyaena hyaena barbara	N/A	Morocco	Entire	E	4	N/A
Hyena, brown	Hyaena brunnea	N/A	South Africa	Entire	E	4	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Ibex, Pyrenean	Capra tyrenaica pyrenaica	N/A	Spain	Entire	E	3	N/A
Ibex, Walia	Capra walie	N/A	Ethiopia	Entire	E	3	N/A
Impala, black-faced	Aepyceros melampus petersi	N/A	Namibia, Angola	Entire	E	4	N/A
Indris	Indris spp. (all species)	N/A	Malagasy Republic (Madagascar), Comoro I. sd.	Entire	E	3,4	N/A
Jaguar	Panthera onca	N/A	U.S. (Southwestern) to South America	Entire, except USA	E	4	N/A
Kangaroo, eastern gray (see also Forester, Tasmanian)	Macropus giganteus	N/A	Australia	Entire	T	7	17.40(a)
	(all subspecies except tasmaniensis	N/A					
Kangaroo, red	Megaleia rufa	N/A	Australia	Entire	T	7	17.40(a)
Kangaroo, western gray	Macropus fuliginosus	N/A	Australia	Entire	T	7	17.40(a)
Kouprey	Bos sauveli	N/A	Cambodia	Entire	E	3	N/A
Langur, Douc	Pygathrix nemaeus	N/A	Cambodia, Laos, China, Vietnam	Entire	E	4	N/A
Langur, Pagi Island	Simias concolor	N/A	Indonesia	Entire	E	4	N/A
Leopard	Panthera pardus	N/A	Africa and Asia	Entire	E	3,5	N/A
Leopard, Formosan clouded	Neofelis nebulosa brachyurus	N/A	Taiwan	Entire	E	4	N/A
Leopard, snow	Panthera uncia	N/A	Central Asia	Entire	E	5	N/A
Lion, Asiatic	Panthera leo persica	N/A	India	Entire	E	3	N/A
Lynx, Spanish	Felis (Lynx) lynx pardina (Felis pardina)	N/A	Spain	Entire	E	3	N/A
Macaque, lion-tailed	Macaca silenus	N/A	India	Entire	E	3	N/A
Manatee, Amazonian	Trichechus inunguis	N/A	South America; Amazon River Basin	Entire	E	3	N/A
Manatee, West Indian (Florida)	Trichechus manatus	N/A	USA (Southeastern), Caribbean Ocean, South America	Entire	E	1,3	N/A
Mangabey, Tana River	Cercocebus galeritus	N/A	Kenya	Entire	E	3	N/A
Margay	Felis wiedii	N/A	Central and South America, USA (Texas)	Entire, except USA	E	5	N/A
Marmoset, Goeldi's	Callimico goeldii	N/A	Brazil, Colombia, Ecuador, Peru	Entire	E	4	N/A
Marsupial, eastern jerboa	Antechinomys laniger	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, large desert	Sminthopsis psammophila	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, long-tailed	Sminthopsis longicaudata	N/A	Australia	Entire	E	4	N/A
Marten, Formosan yellow-throated	Martes flavigula chrysospila	N/A	Taiwan	Entire	E	4	N/A
Monkey, red-backed squirrel	Saimiri oerstedii (Saimiri sciureus oerstedii)	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, spider	Ateles geoffroyi frontatus	N/A	Costa Rica, Nicaragua	Entire	E	3	N/A
Monkey, spider	Ateles geoffroyi panamensis	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, woolly spider	Brachyteles arachnoides	N/A	Brazil	Entire	E	4	N/A
Mouse, Field's	Pseudomys fieldi	N/A	Australia	Entire	E	4	N/A
Mouse, Gould's	Pseudomys gouldii	N/A	Australia	Entire	E	6	N/A
Mouse, New Holland	Pseudomys novaehollandiae	N/A	Australia	Entire	E	4	N/A
Mouse, salt marsh harvest	Reithrodontomys raviventris	N/A	USA (California)	Entire	E	2	N/A
Mouse, Shark Bay	Pseudomys praeconis	N/A	Australia	Entire	E	4	N/A
Mouse, shortridge's	Pseudomys shortridgei	N/A	Australia	Entire	E	4	N/A
Mouse, Smoky	Pseudomys fumeus	N/A	Australia	Entire	E	4	N/A
Mouse Western	Pseudomys occidentalis	N/A	Australia	Entire	E	4	N/A
Native-cat, Eastern	Dasyurus viverrinus	N/A	Australia	Entire	E	6	N/A
Numbat	Myrmecobius fasciatus	N/A	Australia	Entire	E	6	N/A
Ocelot	Felis pardalis	N/A	Central and South America, USA (AZ,TX)	Entire, except USA	E	5	N/A
Orangutan	Pongo pygmaeus	N/A	Indonesia, Malaysia, Brunei	Entire	E	3	N/A
Oryx, Arabian	Oryx leucoryx	N/A	Arabian Peninsula	Entire	E	3	N/A
Otter, Cameroon clawless	Paraonyx microdon	N/A	Cameroon	Entire	E	4	N/A
Otter, giant	Pteronura brasiliensis	N/A	South America	Entire	E	3	N/A
Otter, La Plata	Lutra platensis	N/A	Uruguay, Argentina, Bolivia, Brazil	Entire	E	4	N/A

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Panther, Florida	Felis concolor coryi	N/A	Florida	Entire	E	1	N/A
Planigale, little	Planigale subtilissima	N/A	Australia	Entire	E	4	N/A
Planigale, Southern	Planigale tenuirostris	N/A	Australia	Entire	E	4	N/A
Porcupine, thin-spined	Chaetomys subspinosus	N/A	Brazil	Entire	E	3	N/A
Possum, mountain pygmy	Burramys parvus	N/A	Australia	Entire	E	4	N/A
Possum, scaly-tailed	Wyulda squamicaudata	N/A	Australia	Entire	E	4	N/A
Prairie Dog, Mexican	Cynomys mexicanus	N/A	Mexico	Entire	E	4	N/A
Prairie Dog, Utah	Cynomys parvidens	N/A	USA (Utah)	Entire	E	6	N/A
Pronghorn, Sonoran	Antilocapra americana sonoriensis	N/A	USA (Arizona), Mexico	Entire	E	1,3	N/A
Quokka	Setonix brachyurus	N/A	Australia	Entire	E	6	N/A
Rabbit, volcano	Romerolagus diazi	N/A	Mexico	Entire	E	4	N/A
Rat, false water	Xeromys myoides	N/A	Australia	Entire	E	4	N/A
Rat, stick-nest	Leporillus conditor	N/A	Australia	Entire	E	6	N/A
Rat, Morro Bay kangaroo	Dipodomys heermanni morroensis	N/A	USA (California)	Entire	E	2	N/A
Rat-kangaroo, brush-tailed	Bettongia penicillata	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Gaimard's	Bettongia gaimardi	N/A	Australia	Entire	E	6	N/A
Rat-kangaroo, Lesuer's	Bettongia lesueur	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, plain	Caloprymnus campestris	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Queensland	Bettongia tropica	N/A	Australia	Entire	E	4	N/A
Rhinoceros, great Indian	Rhinoceros unicornis	N/A	India, Nepal	Entire	E	4	N/A
Rhinoceros, Javan	Rhinoceros sondaicus	N/A	Indonesia, Burma, Thailand	Entire	E	3	N/A
Rhinoceros, northern white	Ceratotherium simum cottoni	N/A	Zaire, Uganda, Sudan Central African Republic	Entire	E	4	N/A
Rhinoceros, Sumatran	Didermoceros sumatrensis	N/A	Bangladesh to Vietnam to Indonesia (Borneo)	Entire	E	3	N/A
Saki, white-nosed	Chiropotes albinasus	N/A	Brazil	Entire	E	4	N/A
Seal, Mediterranean monk	Monachus monachus	N/A	Mediterranean, Northwest African Coast and Black Sea	Entire	E	3	N/A
Seledang (Gaur)	Bos gaurus	N/A	India, Southeast Asia, Bangladesh	Entire	E	4	N/A
Serval, Barbary	Felis serval constantina	N/A	Algeria	Entire	E	4	N/A
Shou	Cervus elaphus wallichi	N/A	Tibet, Bhutan	Entire	E	4	N/A
Sitakas	Propithecus spp. (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Sloth, Brazilian three-toed	Bradypus torquatus	N/A	Brazil	Entire	E	4	N/A
Solenondon, Cuban	Atopogale cubana	N/A	Cuba	Entire	E	4	N/A
Solenondon, Haitan	Solenodon paradoxus	N/A	Dominican Republic, Haiti	Entire	E	4	N/A
Squirrel, Delmarva Peninsula fox	Sciurus niger cinereus	N/A	USA (Maryland)	Entire	E	1	N/A
Stag, Barbary	Cervus elephus barbarus	N/A	Tunisia, Algeria	Entire	E	3	N/A
Stag, Kashmir	Cervus elephus hanglu	N/A	Kashmir	Entire	E	3	N/A
Tamaraw	Bubalus (Anoa) mindorensis	N/A	Philippines	Entire	E	4	N/A
Tamarin, golden-rumped (golden-headed Tamarin; golden-lion Marmoset)	Leontideus spp. (all species)	N/A	Brazil	Entire	E	3	N/A
Tapir, Brazilian	Tapirus terrestris	N/A	Venezuela, Argentina, Brazil. Colombia	Entire	E	4	N/A
Tapir, Central American	Tapirus bairdii	N/A	Southern Mexico to Colombia and Ecuador	Entire	E	4	N/A
Tapir, mountain	Tapirus pinchaque	N/A	Colombia, Ecuador	Entire	E	4	N/A
Tiger	Panthera tigris	N/A	Temperate & Tropical Asia	Entire	E	3,5	N/A
Tiger, Tasmanian (Thylacine)	Thylacinus cynocephalus	N/A	Australia	Entire	E	3	N/A
Uakari	Cacajao spp. (all species)	N/A	Peru, Colombia, Brazil, Venezuela, Ecuador	Entire	E	3	N/A
Vicuna	Vicugna vicugna	N/A	Peru, Bolivia, Argentina	Entire	E	3	N/A
Wallaby, banded hare	Lagostrophus fasciatus	N/A	Australia	Entire	E	4	N/A

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Wallaby, brindled	Onychogalea frenata	N/A	Australia	Entire	E	4	N/A
Wallaby, crescent nail-tailed	Onychogalea lunata	N/A	Australia	Entire	E	4	N/A
Wallaby, Parma	Macropus parma	N/A	Australia	Entire	E	4	N/A
Wallaby, western hare	Lagorchestes hirsutus	N/A	Australia	Entire	E	4	N/A
Wallaby, yellow-footed rock	Petrogale xanthopus	N/A	Australia	Entire	E	6	N/A
Wolf, maned	Chrysocyon brachyurus	N/A	Argentina, Bolivia, Brazil, Paraguay	Entire	E	4	N/A
Wolf, red	Canis rufus	N/A	Texas, Louisiana	Entire	E	2	N/A
Wombat, Barnard's	Lasiorhinus barnardi	N/A	Australia	Entire	E	4	N/A
Wombat, Queensland hairy-nosed	Lasiorhinus gillespiei	N/A	Australia	Entire	E	6	N/A
Yak, wild	Bos grunniens mutus	N/A	China (Tibet), India	Entire	E	4	N/A
BIRDS:							
Akepa, Hawaii (honeycreeper)	Loxops coccinea coccinea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akepa, Maui (honeycreeper)	Loxops coccinea ochracea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akialoa, Kauai (honeycreeper)	Hemignathus procerus	N/A	USA (Hawaii)	Entire	E	1	N/A
Akiapolaau (honeycreeper)	Hemignathus wilsoni	N/A	USA (Hawaii)	Entire	E	1	N/A
Albatross, short-tailed	Diomedea albatrus	N/A	North Pacific Ocean: Japan, Soviet Union, USA	Entire, except USA	E	3	N/A
Bobwhite, masked (quail)	Colinus virginianus ridgwayi	N/A	USA (Arizona), Mexico (Sonora)	Entire	E	1,3	N/A
Bristlebird, western	Dasyornis brachypterus longirostris	N/A	Australia	Entire	E	4	N/A
Bulbul, Mauritius olivaceous	Hypsipetes borbonicus olivaceus	N/A	Mauritius	Entire	E	3	N/A
Bullfinch, Sao Miguel (finch)	Pyrrhula pyrrhula murina	N/A	Eastern Atlantic Ocean: Azores	Entire	E	3	N/A
Bushwren, New Zealand	Xenicus longipes	N/A	New Zealand	Entire	E	3	N/A
Bustard, great Indian	Choriotis nigriceps	N/A	India, Pakistan	Entire	E	3	N/A
Cahow (Bermuda Petrel)	Pterodroma cahow	N/A	Western Atlantic Ocean: Bernuda	Entire	E	4	N/A
Condor, Andean	Vultur gryphus	N/A	Colombia to Chile and Argentina	Entire	E	4	N/A
Condor, California	Gymnogyps californianus	N/A	USA (OR,CA), Mexico (Baja California)	Entire	E	1	N/A
Coot, Hawaiian	Fulica americana alai	N/A	USA (Hawaii)	Entire	E	2	N/A
Crane, hooded	Grus monacha	N/A	Japan, Soviet Union	Entire	E	4	N/A
Crane, Japanese	Grus japonensis	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Crane, Mississippi sandhill	Grus canadensis pulla	N/A	USA (Mississippi)	Entire	E	6	N/A
Crane, Siberian white	Grus leucogeranus	N/A	Soviet Union (Siberia) to India	Entire	E	4	N/A
Crane, whooping	Grus americana	N/A	Canada, USA, Mexico	Entire	E	1,3	N/A
Creeper, Molokai (Kakawahie)	Loxops maculata flammea	N/A	USA (Hawaii)	Entire	E	2	N/A
Creeper, Oahu (Alauwahio)	Loxops maculata maculata	N/A	USA (Hawaii)	Entire	E	2	N/A
Crow, Hawaiian (Alala)	Corvus tropicus	N/A	USA (Hawaii)	Entire	E	1	N/A
Cuckoo-shrike, Mauritius	Coquus (=Coracina) typicus	N/A	Indian Ocean, Mauritius	Entire	E	3	N/A
Cuckoo-shrike, Reunion	Coquus (=Coracina) newtoni	N/A	Indian Ocean: Reunion Island	Entire	E	3	N/A
Curassow, red-billed	Crax blumenbachii	N/A	Brazil	Entire	E	4	N/A
Curassow, Trinidad white-headed	Pipile pipile pipile	N/A	West Indies: Trinidad	Entire	E	3	N/A

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Curlew, Eskimo	Numenius borealis	N/A	Alaska to Argentina	Entire	E	1,3	N/A
Dove, cloven-feathered	Drepanoptila holosericea	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	4	N/A
Dove, Grenada	Leptotila wellsi	N/A	West Indies: Grenada	Entire	E	4	N/A
Dove, Palau ground	Gallicolumba canifrons	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Duck, Hawaiian (Koloa)	Anas wyvilliana	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, Laysan	Anas laysanensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, white-winged wood	Cairina scutulata	N/A	India, Burma, Thailand, Malaysia, Indonesia	Entire	E	3	N/A
Eagle, Philippine	Pithecophaga jefferyi	N/A	Philippines	Entire	E	3	N/A
Eagle, Spanish imperial	Aquila heliaca adalberti	N/A	Spain, Morocco, Algeria	Entire	E	4	N/A
Egret, Chinese	Egretta eulophotes	N/A	China, Korea	Entire	E	4	N/A
Falcon, American peregrine	Falco peregrinus anatum	N/A	Canada, USA, Mexico	Entire	E	2,3	N/A
Falcon, Arctic peregrine	Falco peregrinus tundrius	N/A	Alaska to Greenland, south to South America	Entire	E	2,4	N/A
Finch, Laysan (honeycreeper)	Telespyza (=Psittirostra) cantans	N/A	USA (Hawaii)	Entire	E	1	N/A
Finch, Nihoa (honeycreeper)	Telespyza (=Psittirostra) ultima	N/A	USA (Hawaii)	Entire	E	1	N/A
Flycatcher, Euler's	Empidonax euleri johnstonei	N/A	West Indies: Grenada	Entire	E	3	N/A
Flycatcher, Palau fantail	Rhipidura lepida	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Flycatcher, Seychelles paradise	Terpsiphone corvina	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Flycatcher, Tahiti	Pomarea nigra nigra	N/A	South Pacific Ocean: Tahiti	Entire	E	3	N/A
Flycatcher, Tinian monarch	Monarcha takatsukasae	N/A	Western Pacific Ocean: USA (Marianas Islands)	Entire	E	3	N/A
Fody, Seychelles (Weaver-finch)	Foudia sechellarum	N/A	Indian Ocean	Entire	E	3	N/A
Gallinule, Hawaiian	Gallinula chloropus sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goose, Aleutian Canada	Branta canadensis leucopareia	N/A	Western USA (AK,WA, OR,CA), Japan	Entire	E	1,4	N/A
Goose, Hawaiian (Nene)	Branta sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goshawk, Christmas Island	Accipiter fasciatus natalis	N/A	Indian Ocean: Australia (Christmas Island)	Entire	E	3	N/A
Grackle, slender-billed	Cassidix palustris	N/A	Mexico	Entire	E	4	N/A
Grasswren, Eyrean (flycatcher)	Amytornis goyderi	N/A	Australia	Entire	E	4	N/A
Grebe, Atitlan	Podilymbus gigas	N/A	Guatemala	Entire	E	3	N/A
Guan, horned	Oreophasis derbianus	N/A	Guatemala, Mexico	Entire	E	3	N/A
Gull, Audouin's	Larus audouinii	N/A	Mediterranean Sea and adjacent islands	Entire	E	3	N/A
Hawk, Anjouan Island sparrow	Accipiter francesii pusillus	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Hawk, Galapagos	Buteo galapagoensis	N/A	Ecuador (Galapagos Islands)	Entire	E	3	N/A
Hawk, Hawaiian (Io)	Buteo solitarius	N/A	USA (Hawaii)	Entire	E	1	N/A
Honeycreeper, crested (Akohekohe)	Palmeria dolei	N/A	USA (Hawaii)	Entire	E	1	N/A
Honeyeater, helmeted	Meliphaga cassidix	N/A	Australia	Entire	E	4	N/A
Ibis, Japanese crested	Nipponia nippon	N/A	China, Japan, Korea, Soviet Union	Entire	E	3	N/A
Kagu	Rhynochetos jubatus	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	3	N/A
Kakapo (owl-parrot)	Strigops habroptilus	N/A	New Zealand	Entire	E	4	N/A
Kestrel, Mauritius	Falco punctatus	N/A	Indian Ocean: Mauritius	Entire	E	3	N/A
Kestrel, Seychelles	Falco araea	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Kite, Cuba hook-billed	Chondrohierax wilsonii	N/A	Cuba	Entire	E	4	N/A
Kite, Grenada hook-billed	Chondrohierax uncinatus mirus	N/A	West Indies: Grenada	Entire	E	4	N/A
Kite, Everglade (snail kite)	Rostrhamus sociabilis plumbeus	N/A	USA (Florida)	Entire	E	1	N/A
Kokako (Wattlebird)	Callaeas cinerea	N/A	New Zealand	Entire	E	3	N/A

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Magpie-robin, Seychelles (thrush)	Copsychus sechellarum	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Malkoha, red-faced (cuckoo)	Phaenicophaeus pyrrhocephalus	N/A	Sri Lanka	Entire	E	3	N/A
Megapode, La Perouse's	Megapodius laperouse	N/A	Western Pacific Ocean: USA (Palau Islands, Marianas Islands)	Entire	E	4	N/A
Megapode, Maleo	Macrocephalon maleo	N/A	Indonesia (Celebes)	Entire	F	4	N/A
Millerbird, Nihoa (willow warbler)	Acrocephalus familiaris kingi	N/A	USA (Hawaii)	Entire	E	1	N/A
Nukupuu (honeycreeper)	Hemignathus lucidus	N/A	USA (Hawaii)	Entire	E	2	N/A
Oo, Kauai (Oo Aa) (honeyeater)	Moho Braceatus	N/A	USA (Hawaii)	Entire	E	1	N/A
Ostrich, Arabian	Struthio camelus syriacus	N/A	Jordan, Saudi Arabia	Entire	E	3	N/A
Ostrich, West African	Struthio camelus spatzi	N/A	Spanish Sahara	Entire	E	4	N/A
Ou (honeycreeper)	Psittirostra psittacea	N/A	USA (Hawaii)	Entire	E	1	N/A
Owl, Anjouan scops	Otus rutilus capnodes	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Owl, Palau	Otus podargina	N/A	Western Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Owl, Seychelles	Otus insularis	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Owlet, Mrs. Morden's	Otus ireneae	N/A	Kenya	Entire	E	3	N/A
Palila (honey-creeper)	Psittirostra bailleui	N/A	USA (Hawaii)	Entire	E	1	N/A
Parakeet, golden	Aratinga guarouba	N/A	Brazil	Entire	E	4	N/A
Parakeet, golden-shouldered	Psephotus chrysopterygius	N/A	Australia	Entire	E	4	N/A
Parakeet, Mauritius ring-neck	Psittacula krameri echo	N/A	Indian Ocean: Mauritius	Entire	E	4	N/A
Parakeet, ochre-marked	Pyrrhura cruentata	N/A	Brazil	Entire	E	4	N/A
Parakeet, orange-bellied	Neophema chrysogaster	N/A	Australia	Entire	E	4	N/A
Parakeet, paradise	Psephotus pulcherrimus	N/A	Australia	Entire	E	4	N/A
Parakeet, scarlet-chested	Neophema splendida	N/A	Australia	Entire	E	4	N/A
Parakeet, turquoise	Neophema pulchella	N/A	Australia	Entire	E	4	N/A
Parrot, ground	Pezoporus wallicus	N/A	Australia	Entire	E	6	N/A
Parrot, imperial	Amazona imperialis	N/A	West Indies: Dominica	Entire	E	4	N/A
Parrot, Australian night	Geopsittacus occidentalis	N/A	Australia	Entire	E	3	N/A
Parrot, Puerto Rican	Amazona vittata	N/A	USA (Puerto Rico)	Entire	E	1	N/A
Parrot, red-browed	Amazona rhodocorytha	N/A	Brazil	Entire	E	4	N/A
Parrot, St. Lucia	Amazona versicolor	N/A	West Indies: St. Lucia	Entire	E	4	N/A
Parrot, St. Vincent	Amazona guildingii	N/A	West Indies: St. Vincent	Entire	E	3	N/A
Parrot, thick-billed	Rhynchopsitta pachyrhyncha	N/A	Mexico, USA (Arizona, New Mexico)	Mexico	E	3	N/A
Parrotbill, Maui (honeycreeper)	Pseudonestor xanthophrys	N/A	USA (Hawaii)	Entire	E	1	N/A
Pelican, brown	Pelecanus occidentalis	N/A	USA, West Indies, Central and South America: Coastal	Entire	E	2,4	N/A
Penguin, Galapagos	Spheniscus mendiculus	N/A	Ecuador (Galapagos Islands)	Entire	E	2,4	N/A
Petrel, Hawaiian dark-rumped	Pterodroma phaeopygia sandwichensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Pheasant, bar-tailed	Symaticus humiae	N/A	Burma, China	Entire	E	3	N/A
Pheasant, Blyth's tragopan	Tragopan blythii	N/A	Burma, China, India	Entire	E	3	N/A
Pheasant, brown eared	Crossoptilon mantchuricum	N/A	China	Entire	E	3	N/A
Pheasant, Cabot's tragopan	Tragopan caboti	N/A	China	Entire	E	3	N/A
Pheasant, Chinese monal	Lophophorus lhuysii	N/A	China	Entire	E	3	N/A
Pheasant, Edward's	Lophura edwardsi	N/A	Vietnam	Entire	E	3	N/A
Pheasant, imperial	Lophura imperialis	N/A	Vietnam	Entire	E	3	N/A
Pheasant, Mikado	Syrmaticus mikado	N/A	Taiwan	Entire	E	4	N/A
Pheasant, Palawan peacock	Polyplectron emphanum	N/A	Philippines	Entire	E	3	N/A
Pheasant, Sclater's monal	Lophophorus sclateri	N/A	Burma, China, India	Entire	E	3	N/A

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Pheasant, Swinhoe's	Lophura swinhoii	N/A	Taiwan	Entire	E	3	N/A
Pheasant, western tragopan	Tragopan melanocephalus	N/A	India, Pakistan	Entire	E	3	N/A
Pheasant, white eared	Crossoptilon crossoptilon	N/A	China (Tibet), India	Entire	E	4	N/A
Pigeon, Azores wood	Columba palumbus azorica	N/A	East Atlantic Ocean: Portugal (Azores)	Entire	E	3	N/A
Pigeon, Chatham Island	Hemiphaga novaeseelandiae chathamensis	N/A	New Zealand	Entire	E	4	N/A
Pigeon, Puerto Rican plain	Columba inornata wetmorei	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Plover, New Zealand Shore	Thinornis novaseelandiae	N/A	New Zealand	Entire	E	4	N/A
Prairie chicken, Attwater's greater	Tympanuchus cupido attwateri	N/A	USA (Texas)	Entire	E	1	N/A
Rail, Aukland Island	Rallus pectoralis muelleri	N/A	New Zealand	Entire	E	3	N/A
Rail, California clapper	Rallus longirostris obsoletus	N/A	USA (California)	Entire	E	2	N/A
Rail, light-footed clapper	Rallus longirostris levipes	N/A	USA (California), Mexico (Baja Calif.)	Entire	E	2	N/A
Rail, Yuma clapper	Rallus longirostris yumanensis	N/A	Mexico (Sonora), USA (Arizona, California)	Entire	E	1	N/A
Rhea, Darwin's	Pterocnemia pennata	N/A	Argentina, Bolivia, Peru, Uruguay	Entire	E	4	N/A
Robin, Chatham Island	Petroica traversi ultima	N/A	New Zealand	Entire	E	4	N/A
Robin, scarlet-breasted (flycatcher)	Petroica multicolor multicolor	N/A	Australia (Norfolk Island)	Entire	E	3	N/A
Rockfowl, grey-necked	Picathartes oreas	N/A	Cameron	Entire	E	3	N/A
Rockfowl, white-necked	Picathartes gymnocephalus	N/A	Africa: Togo to Sierra Leone	Entire	E	3	N/A
Roller, long-tailed ground	Uratelornis chimaera	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Scrub-bird, noisy	Atrichornis clamosus	N/A	Australia	Entire	E	3	N/A
Shama, Cebu black (thrush)	Copsychus niger cebuensis	N/A	Philippines	Entire	E	3	N/A
Sparrow, Cape Sable	Ammospiza maritima mirabilis	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, dusky seaside	Ammospiza maritima nigrescens	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, Santa Barbara song	Melospiza melodia graminea	N/A	USA (California)	Entire	E	6	N/A
Starling, Ponape mountain	Aplonis pelzelni	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
Starling, Rothchild's (Myna)	Leucopsar rothschildi	N/A	Indonesia (Bali)	Entire	E	4	N/A
Stilt, Hawaiian	Himantopus himantopus knudseni	N/A	USA (Hawaii)	Entire	E	2	N/A
Stork, oriental white	Ciconia ciconia boyciana	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Tern, California least	Sterna albifrons browni	N/A	Mexico, USA (California)	Entire	E	2,4	N/A
Thrasher, white-breasted	Ramphocinclus brachyurus	N/A	West Indies: Martinique, St. Lucia	Entire	E	3	N/A
Thrush, large Kauai	Phaeornis obscurus myadestina	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, Molokai (Olomau)	Phaeornis obscurus rutha	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, New Zealand (wattlebird)	Turnagra capensis	N/A	New Zealand	Entire	E	3	N/A
Thrush, small Kauai (Puaiohi)	Phaeornis palmeri	N/A	USA (Hawaii)	Entire	E	1	N/A
Trembler, Martinique brown (thrasher)	Cinclocerthia ruficauda gutturalis	N/A	West Indies: Martinique	Entire	E	3	N/A
Wanderer, plain	Pedionomus torquatus	N/A	Australia	Entire	E	6	N/A
Warbler (wood), Bachman's	Vermivora bachmanii	N/A	Cuba, USA (Southeastern)	Entire	E	1,4	N/A
Warbler (wood), Barbados yellow	Dendroica petechia petechia	N/A	West Indies: Barbados	Entire	E	4	N/A
Warbler (wood), Kirtland's	Dendroica kirtlandii	N/A	USA, West Indies: Bahama Islands	Entire	E	1,4	N/A
Warbler, reed	Acrocephalus luscinia	N/A	Western Pacific Ocean: Marianas Islands	Entire	E	3	N/A
Warbler, Rodrigues	Bebrornis rodericanus	N/A	Mauritius (Rodrigues Island)	Entire	E	3	N/A
Warbler, Semper's	Leucopeza semperi	N/A	West Indies: St. Lucia	Entire	E	3	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Warbler, Seychelles	Bebrornis sechellensis	N/A	Indian Ocean: Seychelles Island	Entire	E	3	N/A
Whipbird, Western	Psophodes nigrogularis	N/A	Australia	Entire	E	4	N/A
Whip-poor-will, Puerto Rican	Caprimulgus noctitherus	N/A	USA (Puerto Rico)	Entire	E	6	N/A
White-eye, Ponape great	Rukia sanfordi	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
White-eye, Seychelles	Zosterops modesta	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Woodpecker, imperial	Campephilus imperialis	N/A	Mexico	Entire	E	3	N/A
Woodpecker, ivory billed	Campephilus principalis	N/A	Cuba, USA (South-central and south-eastern)	Entire	E	1,3	N/A
Woodpecker, red-cockaded	Picoides (=Dendrocopos) borealis	N/A	USA (Southcentral and Southeastern)	Entire	E	3	N/A
Woodpecker, Tristam's	Dryocopus javensis richardsi	N/A	Korea	Entire	E	3	N/A
Wren, Guadeloupe house	Troglodytes aedon guadeloupensis	N/A	West Indies: Guadeloupe	Entire	E	3	N/A
Wren, St. Lucia house	Troglodytes aedon mesoleucus	N/A	West Indies: St. Lucia	Entire	E	3	N/A
REPTILES:							
Boa, Jamaican	Epicrates subflavus	N/A	Jamaica	Entire	E	4	N/A
Boa, Puerto Rico	Epicrates inornatus	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Crocodile, Cuban	Crocodylus rhombifer	N/A	Cuba	Entire	E	3	N/A
Crocodile, Morelet's	Crocodylus moreletii	N/A	Mexico, Belize, Guatemala	Entire	E	4	N/A
Crocodile, Nile	Crocodylus niloticus	N/A	Africa	Entire	E	4	N/A
Crocodile, Orinoco	Crocodylus intermedius	N/A	South America: Orinoco River Basin	Entire	E	4	N/A
Gavial (Gharial)	Gavialus gangeticus	N/A	Pakistan, India, Burma, Bangladesh	Entire	E	4	N/A
Gecko, day	Phelsuma newtoni	N/A	Mauritius	Entire	E	4	N/A
Gecko, Round Island day	Phelsuma guentheri	N/A	Mauritius	Entire	E	4	N/A
Iguana, Anegada ground	Cyclura pinguis	N/A	West Indies: Virgin Islands (Anegada Island)	Entire	E	3	N/A
Iguana, Barrington land	Conolophus pallidus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Lizard, blunt-nosed leopard	Crotaphytus silus	N/A	USA (California)	Entire	E	1	N/A
Snake, San Francisco garter	Thamnophis sirtalis tetrataenia	N/A	USA (California)	Entire	E	1	N/A
Terrapin, river (Tuntong)	Batagur baska	N/A	Burma, India, Indonesia, Malaysia, Bangladesh	Entire	E	4	N/A
Tortoise, Galapagos	Geochelone elephantopus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Tortoise, Madagascar radiated	Geochelone radiata	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Tortoise, short-necked or swamp	Pseudemydura umbrina	N/A	Australia	Entire	E	4	N/A
Tuatara	Sphenodon punctatus	N/A	New Zealand	Entire	E	4	N/A
Turtle, aquatic box	Terrapene coahuila	N/A	Mexico	Entire	E	6	N/A
Turtle, hawksbill sea	Eretmochelys imbricata	N/A	Tropical Seas	Entire	E	3	N/A
Turtle, Kemp's (Atlantic) Ridley sea	Lepidochelys kempii	N/A	Tropical & Temperate Seas	Entire	E	4	N/A
Turtle, leatherback sea	Dermochelys coriacea	N/A	Tropical and Temperate Seas	Entire	E	3	N/A
Turtle, South American	Podocnemis expansa	N/A	South America: Orinoco and Amazon River basins	Entire	E	3	N/A
Turtle, South American	Podocnemis unifilis	N/A	South America: Orinoco and Amazon River basins	Entire	E	4	N/A
Yacare (Caiman)	Caiman yacare	N/A	Bolivia, Peru, Argentina, Brazil	Entire	E	3	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
AMPHIBIANS:							
Frog, Israel painted	Discoglossus nigriventer	N/A	Israel	Entire	E	4	N/A
Frog, Stephen Island	Leiopelma hamiltoni	N/A	New Zealand	Entire	E	4	N/A
Salamander, desert slender	Batrachoseps aridus	N/A	USA (California)	Entire	E	6	N/A
Salamander, Santa Cruz long-toed	Ambystoma macrodactylum croceum	N/A	USA (California)	Entire	E	1	N/A
Salamander, Texas blind	Typhlomolge rathbuni	N/A	USA (Texas)	Entire	E	1	N/A
Toad, Houston	Bufo houstonensis	N/A	USA (Texas)	Entire	E	2	N/A
FISHES:							
Ala Balik	Salmo platycephalus	N/A	Turkey	Entire	E	3	N/A
Ayumodoki	Hymenophysa curta	N/A	Japan	Entire	E	3	N/A
Blindcat, Mexican	Prietella phreatophila	N/A	Mexico	Entire	E	3	N/A
Bonytail, Pahranagat	Gila robusta jordani	N/A	USA (Nevada)	Entire	E	2	N/A
Catfish	Pangasius sanitwongsei	N/A	Thailand	Entire	E	3	N/A
Catfish, giant	Pangasianodon gigas	N/A	Thailand	Entire	E	3	N/
Chub, humpback	Gila cypha	N/A	USA (AZ,UT,WY)	Entire	E	1	N/A
Chub, Mohave	Gila mohavensis	N/A	USA (California)	Entire	E	2	N/A
Cicek	Acanthorutilus handlirschi	N/A	Turkey	Entire	E	3	N/A
Cisco, longjaw	Coregonus alpenae	N/A	USA (Lakes Michigan, Huron and Erie)	Entire	E	1	N/A
Cui-ui	Chasmistes cujus	N/A	USA (Nevada)	Entire	E	1	N/A
Dace, Kendall Warm Springs	Rhinichthys osculus thermalis	N/A	USA (Wyoming)	Entire	E	2	N/A
Dace, Moapa	Moapa coriacea	N/A	USA (Nevada)	Entire	E	1	N/A
Darter, fountain	Etheostoma fonticola	N/A	USA (Texas)	Entire	E	2	N/A
Darter, Maryland	Etheostoma sellare	N/A	USA (Maryland)	Entire	E	1	N/A
Darter, Okaloosa	Etheostoma okaloosae	N/A	USA (Florida)	Entire	E	6	N/A
Darter, watercress	Etheostoma nuchale	N/A	USA (Alabama)	Entire	E	2	N/A
Gambusia, Big Bend	Gambusia gaigei	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Clear Creek	Gambusia heterochir	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Pecos	Gambusia nobilis	N/A	USA (Texas)	Entire	E	2	N/A
Killifish, Pahrump	Empetrichythys latos	N/A	USA (Nevada)	Entire	E	1	N/A
Nekogigi	Coreobagrus ichikawai	N/A	Japan	Entire	E	3	N/A
Pike, blue	Stizostedion vitreum glaucum	N/A	USA (Lakes Erie and Ontario)	Entire	E	1	N/A
Pupfish, Comanche Springs	Cyprinodon elegans	N/A	USA (Texas)	Entire	E	1	N/A
Pupfish, Devil's Hole	Cyprinodon diabolis	N/A	USA (Nevada)	Entire	E	1	N/A
Pupfish, Owens River	Cyprinodon radiosus	N/A	USA (California)	Entire	E	1	N/A
Pupfish, Tecopa	Cyprinodon nevadensis calidae	N/A	USA (California)	Entire	E	2	N/A
Pupfish, Warm Springs	Cyprinodon nevadensis pectoralis	N/A	USA (Nevada)	Entire	E	2	N/A
Squawfish, Colorado River	Ptychocheilus lucius	N/A	USA (AZ, CA, CO, NM, NV VT, WY)	Entire	E	1	N/A
Stickleback, unarmored three-spine	Gasterosterus aculeatus williamsonii	N/A	USA (California)	Entire	E	2	N/A
Sturgeon, shortnose	Acipenser brevirostrum	N/A	USA (Atlantic Coast of US and Canada)	Entire	E	1	N/A
Tango, Miyako	Tanakia tanago	N/A	Japan	Entire	E	3	N/A
Topminnow, Gila	Poeciliopsis occidentalis	N/A	USA (Arizona), Mexico	Entire	E	1	N/A
Trout, Gila	Salmo gilae	N/A	USA (New Mexico)	Entire	E	1	N/A
Woundfin	Plagopterus argentissimus	N/A	USA (Arizona, Nevada, Utah)	Entire	E	2	N/A
SNAILS:							
Snail, Manus Island tree	Papustyla pulcherrima	N/A	Admiralty Islands (Manus Islands)	Entire	E	4	N/A

BILLING CODE 4310-55-C

1—32 FR 4001; March 11, 1967
2—35 FR 16047; October 13, 1970
3—35 FR 8495; June 2, 1970
4—35 FR 18320; December 2, 1972
5—37 FR 6476; March 30, 1972
6—38 FR 14678; June 4, 1973
7—39 FR 44991; December 30, 1974

Dated: May 7, 1979.

F. Eugene Hester,

Acting Director, U.S. Fish and Wildlife Service.

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federal register

Monday
May 21, 1979

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Coastal Energy Impact Program

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 931

Coastal Energy Impact Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce

ACTION: Final rule.

SUMMARY: These final regulations describe administrative procedures to implement the Coastal Energy Impact Program (CEIP). The CEIP provides grants and credit assistance to coastal States and communities to help them deal with the impacts of coastal energy development. These regulations will become effective on publication and supersede CEIP administrative regulations (15 CFR Part 931) published in the **Federal Register** on February 23, 1978.

EFFECTIVE DATE: May 21, 1979.

FOR FURTHER INFORMATION CONTACT: James B. Robey or Dan Hoydysh, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (202) 634–4128

SUPPLEMENTARY INFORMATION:

I. Explanatory Statement

The Coastal Energy Impact Program (CEIP) was created by the 1976 amendments to the Coastal Zone Management Act of 1972 Pub. L. 934–370; 16 U.S.C.A. 1451, *et seq.)* and signed into law on July 26, 1976. The National Oceanic and Atmospheric Administration (NOAA) published proposed regulations for the CEIP on October 22, 1976 (41 FR 46724), interim-final regulations on January 5, 1977 (42 FR 1164), and final regulations on February 23, 1978 (43 FR 7545). The preamble to these regulations discussed in detail the issues raised and comments made during the rule-making process. In addition both an environmental impact statement and an economic impact statement were prepared for the final CEIP implementing regulations.

On September 18, 1978, the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA; Pub. L. 95–327) were signed into law changing the CEIP as follows:

The authorization level for section 308(b) formula grants is raised from $50 million to $130 million per fiscal year and the authorization period for these grants is extended from September 30, 1984 to September 30, 1988.

The formula used to allot funds appropriated for formula grants is modified—the *new employment* factor related to outer Continental Shelf (OCS) energy activity has been deleted and the weight given the remaining factors in the formula adjusted.

A ceiling of 37.5% and a floor of 2% of the amount appropriated is established as the maximum and minimum amount that States faced with impacts from OCS energy activity may receive in a fiscal year.

The requirement is deleted that other CEIP financing—credit assistance under section 308(d)—be unavailable before a State or local community can utilize section 308(b) formula grants to plan for, develop, and to carry out projects and programs necessary to provide new or improved public facilities and services required as a result of OCS energy activity. Also deleted is the requirement that the OCS activity that necessitates the new or improved public facilities or public services be *new or expanded.*

Two OCSLAA created amendments to the CEIP are not being implemented in the regulations issued today. They are: (1) the discretionary authority of the Secretary of Commerce (by delegation, the Assistant Administrator of NOAA for Coastal Zone Management) to establish by rule criteria for describing geographic areas in which public facilities and public services are presumed to be required as a result of OCS energy activity; and (2) the establishment of a new fund for the provision of grants to enable States to perform their responsibilities under the amended OCS Lands Act. A decision whether to implement the Assistant Administrator's discretionary authority to designate impact areas will be made after a thorough analysis of the implications of this change for CEIP administration. Regulations for the OCS State Participation Grants Program are being promulgated in a separate rule-making process. Proposed regulations for this program were published in the **Federal Register** on March 19, 1978, as Subpart L of Part 931.

NOAA is reissuing today final regulations to implement the CEIP as amended by the OCSLAA. In addition to implementing the statutory amendments these regulations contain improvements in CEIP operations that are being instituted on the basis of two years of operating experience. These regulations supersede CEIP administrative regulations published in the **Federal Register** on February 23, 1978 (43 FR 7545) and will become effective May 21, 1979.

It is necessary that the regulations be effective on publication because final regulations should be in place before applications for impact funds may be processed and financial assistance awarded pursuant to the statutory changes. Further delay in implementing the mandated changes would severely disrupt the operations of State agencies designated to administer CEIP assistance and lead to delay in providing impact funds to areas of need. Therefore, pursuant to 5 U.S.C. 553(d)(3), NOAA finds for good cause that the effective date of these regulations should not be delayed for 30 days after publication.

NOAA has determined that issuing these regulations is not a major action significantly affecting the quality of the human environment and does not require preparation of an Environmental Impact Statement under the National Environmental Policy Act of 1969. NOAA also has determined that these are not significant regulations and do not require preparation of a regulatory analysis under Executive Order 12044.

II. Discussion of Major Changes to the CEIP, Comments and NOAA Responses.

Proposed regulations implementing the amended CEIP were published in the **Federal Register** on January 15, 1979, and a 45-day comment period was provided ending on March 3, 1979. Comments were received from thirteen States: Alabama, Alaska, California, Florida, Maine, Massachusetts, Michigan, New York, Ohio, Oregon, Rhode Island, South Carolina, and Wisconsin; two Federal agencies: the Environmental Protection Agency (EPA), and the Heritage Conservation and Recreation Service of the Department of Interior; one individual Stauble; and one public interest group, the Natural Resources Defense Council (NRDC).

All comments were given full consideration. Some were adopted in their entirety or in modified form, others have been rejected as inappropriate or legally impermissible. Of the comments rejected in their entirety the vast majority suggested changes to definitions or procedures expressly specified in section 308 of the statute and therefore not within NOAA's discretion. Other rejected comments concerned basic differences in interpretation of section 308 and Congressional intent.

The following discussion focuses on the major changes being instituted in the CEIP, the comments received on the

proposed regulations and NOAA's responses to these comments.

Subpart A—General. The changes in this Subpart are largely editorial and are made to clarify the general structure of the CEIP and its objectives.

One commentator objected to the statement that one of the objectives of the CEIP is to provide a mechanism for balancing the major National goals of attaining a greater degree of energy self-sufficiency and protection of the environment. This commentator suggested that the objectives specified in § 931.2 be rewritten to emphasize the environmental protection aspects of the program over the encouragement of necessary energy development. NOAA believes that the goals as written clearly reflect Congressional intent to maintain a balance between environmental protection and energy development. The CEIP contribution to the national objective of attaining a greater degree of energy self-sufficiency is specifically recognized in section 302(i) of the Coastal Zone Management Act of 1972.

Subpart B—General Definitions. The definition of OCS energy activity is modified to reflect more closely the Congressional intent embodied in the statutory definition. The definitions of *new employment, new or expanded OCS energy activity,* and *unavailability of credit assistance* are deleted because the statutory changes to the CEIP make reference to these terms unnecessary. Other changes in this Subpart are largely editorial.

Coastal energy activity is defined as any OCS energy activity or any of a set of specified activities relating to coal, oil, natural gas or liquefied natural gas that has a "technical requirement" that it be carried out near the coast. One commentator stated that the definition of "technical requirement" is § 931.12 was too broad and that most energy activities could therefore qualify as coastal energy activities. According to this commentator a narrow definition is needed to prevent tremendous pressure on the States to site unneeded facilities in the coastal zone in order to obtain public facility or planning money. Since the definition of coastal energy activity encompasses only a specific set of activities, even a broad definition of "technical requirement" would allow only the above mentioned activities to qualify as coastal energy activities. Moreover, since Congress chose not to expressly define the term "technical requirement" the Assistant Administrator has the discretion to define the term within the purposes for which the CEIP was established. Because a large portion of the population resides in the coastal zone the siting of energy facilities to serve this population is inevitable. An unnecessarily restrictive definition would have the effect of allowing significant impacts to occur in the coastal zone that could be prevented or mitigated with CEIP funds. Accordingly the definition of "technical requirement" remains unchanged except that subsection (c)(7) has been deleted as vague and confusing.

One commentator questioned whether the definition of "significantly affected" in § 931.14 includes losses as well as increases in population and employment. Significantly affected is defined in terms of *changes* in population and employment which includes losses as well as increases.

At the suggestion of one commentator the definition of "significantly affected" in § 931.14 has been amplified to include damage or threat of damage to public health or any violation or threat of violation of any Federal, State, or local environmental standard.

One commentator questioned how transportation systems such as helicopters, crew boats and supply boats are covered under the definition of OCS energy activity as presently written. § 931.17 defines OCS energy activity in nonexclusive terms. The definition is intended to encompass any equipment that is used primarily in the exploration, development or production of OCS oil and gas. Transportation systems such as helicopters, and supply boats qualify as OCS energy activity to the extent they are used to support OCS exploration or development and production.

One commentator suggested broadening the definition of "coastal energy activity" by including fuel refining and processing. This suggestion is rejected as being incompatible with the statutory definition which limits coastal energy activity to any transportation, transfer, or storage of oil, natural gas or coal.

Subpart C—Basic Eligibility. The contents of this Subpart have been restructured. The explanation of what constitutes making satisfactory progress in developing a management program consistent with the policies set forth in section 303 is now a separate section (§ 931.26). An additional section § 931.27 has been added explaining the procedure for determining a State's eligibility to receive CEIP financial assistance.

The final regulations provide that no allotment or award of funds will be made to a State that is not eligible as defined in Subpart C. Funds previously allotted but not awarded to a State at the time the State loses eligibility will be held by the Assistant Administrator in the State's account until the end of the fiscal year in which the State has lost its eligibility. If the State has not regained eligibility under Subpart C at the end of that fiscal year the retained funds will be reallotted among other eligible coastal States as soon as practicable.

Subpart D—Planning for the Consequences of Energy Facilities. This Subpart has been substantially modified. In response to one comment that the proposed regulations permit the Assistant Administrator to allot minimum shares of less than $35,000, § 931.37 has been changed to prohibit the Assistant Administrator from allotting a minimum share of less than $35,000. This floor on the amount of funds that a State may receive under section 308(c)(1) (formerly section 308(c)) is intended to improve State planning by providing the States with more certainty as to the minimum amount of funding they are likely to receive in any fiscal year.

In response to comments that the 10% ceiling imposed on allotments under section 308(c)(1) was not in accordance with Congressional intent that planning grants are to be distributed on the basis of need, the ceiling was raised to 20%. A ceiling on the section 308(c)(1) allotment is imposed because the allotment formula is not an absolute measure of planning need but only estimates the relative need among States. Imposition of a ceiling assures that all States have sufficient funds to address the impacts from new energy facilities.

One commentator objected that decreasing the period of availability of allotted funds would create administrative difficulties for the States in soliciting and processing applications for CEIP assistance from local governments. To provide States with as much time as possible to apply for CEIP assistance the regulations establish a time table for making final allotments under section 308(c)(1). Final allotments will normally be provided to the States within 30 days after the beginning of the fiscal year for which allotments are made.

Several commentators inquired whether funds reverting to the Assistant Administrator will be reallotted for the same purposes for which originally allotted. In general, reverted funds will be reallotted for their original purposes.

One commentator suggested that §§ 931.36 and 931.37 describing the allotment process were overly long and confusing. The entire allotment process under Subpart D has been rewritten, and

the explicit description of the allotment formula has been deleted. There is no requirement in the statute that the Assistant Administrator specify by rule a formula for allotting planning grants. NOAA has determined that not specifying the allotment formula in the regulations both simplifies the regulations and increases program flexibility. However, the Assistant Administrator will use a formula for allotting section 308(c)(1) grants and will circulate the formula for comment before computing final allotments.

In response to several commentators who found the allowable uses of planning grants described in § 931.33 to be confusing and contradictory these sections have been rewritten to clarify the purposes for which funds may be expended under Subpart D.

One commentator suggested that the regulations should expressly state that section 308(c)(1) planning grants could be used to supplement or coordinate ongoing planning activities such as Water Quality Management Plans under the Clean Water Act and Air Quality Plans under the Clean Air Act. To the extent that the planning is related to new or expanded energy facilities significantly affecting the coastal zone this suggestion has been incorporated into § 931.33(a)(2)(vii).

Subpart E—Financing Public Facilities and Public Services. The procedures for allotting credit assistance have been clarified. The period of availability to a State of allotted credit assistance under section 308(d)(1) has been shortened. States must now submit applications by July 1 of the fiscal year in which the credit assistance is allotted or risk having these funds recalled by the Assistant Administrator. However, States may by July 1 request an extension for submitting applications and the Assistant Administrator may grant such extension but not beyond January 1 of the following fiscal year.

Allotted credit assistance that is recalled because it was not applied for within the prescribed time limits will be made available to *all* eligible coastal States by application. Priority of access to this recalled credit assistance will be determined by the priority in submitting a completed application. However, under exceptional circumstances the Assistant Administrator may grant priority to a later application on the basis of immediacy of need and equity in distribution of CEIP credit assistance. A limitation of 50% of the amount available has been imposed as the limit that any State may receive in a fiscal year from the recalled credit assistance.

The requirement that section 308(b) grants can only be used to provide public facilities and services required as a result of "new or expanded" OCS energy activity was deleted in accordance with the OCSLAA. Public facilities and public services can now be provided under section 308(b) if they are required as a result of ongoing or past OCS energy activity. In addition, the requirement that a State first use its credit assistance before accessing its formula grant allotment has been removed in accordance with the OCSLAA.

One commentator suggested that the formula for allotting credit assistance include a factor that considers the vulnerability of the coastal area to be impacted. This suggestion was rejected because section 308(d) limits the factors that may be used in the allotment formula to those stated in § 931.46.

In response to one commentator, the definition of health care in § 931.42(b)(4) has been expanded to include epidemiologic screening.

Several commentators noted that the June deadline established by § 931.51(a) did not allow States sufficient time to process applications and was confusing in light of the July 1 deadline for submitting applications established by § 931.49. These sections have been rewritten to clarify that only one deadline for submission of applications exists—July 1. In addition it is the intent of the Assistant Administrator that final allotments be provided to the States within 30 days after the beginning of the fiscal year for which the funds are allotted.

Subpart F—Repayment Assistance. The changes in the subpart are largely editorial. However, the appeal procedure specified in § 931.69 has been simplified. The requirement that the Administrator of NOAA will, upon request, order a formal hearing on the record to resolve disputes concerning repayment assistance has been deleted as imposing an unnecessary administrative burdens on NOAA. The simplified appeals process is sufficient to protect the legitimate interests of applicants for CEIP financial assistance.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources. The definitions of the terms *valuable, environmental resource,* and *recreational resource,* are consolidated to clarify the concept of *valuable environmental resource* and *valuable recreational resource.* The definition of *unavoidable* is modified to conform more closely with the statutory definition. The description of the process for allotting section 308(b) formula grants (formerly contained in § 931.76) is modified in accordance with the OCSLAA mandated changes and made into a separate subpart of this Part 931—Subpart K.

The procedure for allotting section 308(d)(4) environmental and recreational grants has been changed in accordance with the Congressional intent that these grants are to be used primarily by States that do not receive the benefits of section 308(b) formula grants. Therefore, the regulations provide that section 308(d)(4) grants will be allotted first among those States that do not receive a formula grant allotment in a fiscal year. If any funds remain after this initial allotment they will be allotted among all coastal States eligible under section 308(d)(4).

The time period during which funds allotted under section 308(d)(4) will remain available to a costal State is shortened to one fiscal year. Allotted funds for which applications are not received by the end of the fiscal year in which the funds have been allotted will revert to the Assistant Administrator at the end of the fiscal year. Funds that were allotted under section 308(d)(4) for fiscal year 1978 will revert to the Assistant Administrator on September 30, 1979, unless the State submits applications for these funds by the date.

One commentator strenuously objected to CEIP funds being used under § 931.73 to cover the increased costs due to construction of a more environmentally sound facility than would be required under minimum Federal, State, or local standards. NOAA finds that such an expenditure is not only proper but one of the primary purposes for which the CEIP was established. The specific objection of this commentator was that if a facility could be designed to reduce environmental damage then that loss is not unavoidable. The regulation as written recognizes that there is a difference between designing a facility that meets the highest possible environmental standards and obtaining the funds to build that facility. The intent of § 931.73 is to provide funding to allow the construction of facilities that exceed minimum standards and therefore encourage the prevention of environmental damage that may otherwise occur because of a lack of sufficient funding to obtain the best available technology.

One commentator suggested that the definitions of environmental and recreational resources include resources identified in a State Comprehensive Outdoor Recreation Plan and a State

Historic Preservation Plan. This suggestion has been adopted to the extent that the definitions of valuable environmental and recreational resources contained in § 931.72 have been changed to include resources identified in *any* State plan.

One commentator suggested that the term unavoidable loss include a loss for which no alternative location exists. The regulations do not define unavoidable in terms of alternative siting locations because section 308(i) expressly prohibits the conditioning of CEIP assistance on the siting of any facility in a particular location.

One commentator was concerned that limiting the use of CEIP funds to those projects for which other funds are not available would unnecessarily hamper the provisions of CEIP assistance. This limitation is imposed by section 308(k)(2) and may not be disregarded.

One commentator suggested that the regulations should be modified to protect cultural resources as well as environmental and recreational resources. The regulations expressly define recreational resources to include cultural resources and CEIP funds may therefore be used to prevent damage to cultural resources as defined in § 931.72(b).

One commentator suggested that a loss should not be considered unavoidable if it could have been prevented by a reasonable exercise of a State's regulatory authority. NOAA agrees with this comment and has incorporated this concept in § 931.78(d).

One commentator suggested that it is not appropriate to refer to "ameliorating" environmental damage. This is the expression Congress used in section 308, and it is intended to mean the improvement of adverse conditions resulting from energy development. The Congressional language will continue to be used in the regulations.

Subpart H—Lateral Seaward Boundaries. No substantive changes have been made to this subpart. However, language inadvertently left out of proposed § 931.82 has been added to clarify the basis for delimitation of lateral seaward boundaries. This change was previously published in the Federal Register on July 23, 1978, (43 FR 2379) but was omitted from the proposed rules, inadvertently, in the printing process.

Subpart I—General Provisions. Substantial editorial changes have been made to this Subpart. Certain information and guidance regarding applications for CEIP assistance originally contained in this Subpart have been transferred to other Subparts where they more properly belong. However, the substantive requirements imposed by this Subpart are not changed.

In response to comments that the procedures to be followed for reviewing the environmental impacts of projects funded under the CEIP were vague and overly broad § 931.94 has been clarified. Reference to "threshold criteria" is deleted. The criteria that will be used to decide whether an environmental impact statement will be prepared under the National Environmental Policy Act of 1969 (NEPA) are specified in the regulations. In accordance with the spirit of the Council of Environmental Quality (CEQ) regulations that unnecessary paperwork should be avoided, the regulations establish categorical exclusions of projects that do not individually or cumulatively have a significant effect on the environment and are therefore exempt from the requirements for an environmental assessment under NEPA. However, the Assistant Administrator will review the proposed expenditure of all CEIP funds to assure that the policies of NEPA are effectively implemented.

In response to several comments § 931.94 expressly requires that all CEIP assistance will comply with Executive Orders 11988 (Floodplain Management) and 11990 (Wetlands Protection) and the requirements for protecting historical and cultural properties established by the Council on Historical Preservation (36 CFR Part 880).

Subpart J—Intrastate Allocation of Financial Assistance. The threshold amount that triggers a State's compliance with the "a" process is raised to $1 million in CEIP grants. The amount of credit assistance allotted to a State is no longer a factor in determining whether a State must comply with the "a" or "b" process.

Subpart K—Allotment of Section 308(b) Formula Grants. This Subpart is new. It contains the detailed procedures established by the OCSLAA for allotting formula grants among eligible coastal States.

Several commentators correctly pointed out that the States of South Carolina and Virginia were missing from the list of States in Region I. This inadvertant omission has been corrected.

One commentator objected that the formula for computing section 308(b) formula grants is not equitable because half of the formula grant allotment is based on the number of acres leased and therefore in one year half the appropriation could be allotted to one State while in another year half the appropriation might be shared by several States. This observation is only partially correct. It does not consider the provision of the two percent grants which, in the discretion of the Assistant Administrator, may be used to make equitable distribution among the coastal States of funds appropriated for formula grants. It also does not consider the 37.5% ceiling which limits the amount of funding that any State may be allotted in any fiscal year. More importantly, the formula is expressly specified in section 308 and not within NOAA's discretion to change.

Comments of General Applicability

One commentator suggested that an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 be prepared before these regulations are issued. This suggestion is not accepted. Both an EIS and an economic impact statement were prepared for the initial CEIP implementing regulations. The amendments that are being implemented by these revised regulations do not sufficiently change the basic program to necessitate preparing an additional or supplemental EIS.

One commentator suggested that procedures be established to allow the public to comment on the formulae and data used to compute the allotments to coastal States. The allotments to the States along with the data and formulae used for computations are considered public information. The formulae or their primary elements are specifically described in the statute or regulations. The data base is from public sources and all of the information is provided to the States for comment at least 30 days before final allotments are computed. Most States provide for participation by local governments as a part of their intrastate allocation process. In addition, the award of CEIP financial assistance is subject to the public participation requirements contained in OMB Circular A-95. NOAA will gladly provide any information on the allotment process to any interested member of the public, but NOAA does not believe that a formal public review beyond the presently required notifications is necessary.

One commentator stated that the proposed regulations should tighten the procedures for awarding financial assistance to prevent Federal money from being wasted on unnecessary projects. NOAA believes the final regulations contain adequate safeguards to assure that CEIP funds are spent only for authorized projects. Further restricting access to CEIP funds would

only create unnecessary delay in channeling much needed impact funds to prevent environmental damage and social disruption in the coastal zone. The intent of the CEIP is to allow State and local governments maximum control over the uses of allotted funds. The final CEIP regulations provide a workable balance between State and local discretion and Federal control.

R. L. Carnahan,

Acting Assistant Administrator for Administration.

May 11, 1979.

In consideration of the foregoing, Part 931 is revised as follows:

PART 931—COASTAL ENERGY IMPACT PROGRAM

Authority: Section 308, Coastal Zone Management Act of 1972 (Public Law 92-583, 86 Stat. 1280, U.S.C. 1451 et seq.), as amended by Public Law 95-327.

Subpart A—General

§ 931.1 Coastal Energy Impact Program—general description.

The Coastal Energy Impact Program (CEIP) was established under section 308 of the Act to provide coastal states and local governments in such states with Federal financial assistance to meet certain needs that result from specified energy development activities. Such assistance includes:

(a) Grants to coastal states under subsection b(5)(B) for the study of, planning for, development of, and the carrying out of projects and programs to provide new or improved public facilities or public services required as a result of outer continental shelf energy activity;

(b) Grants under subsections (b)(5)(C) and (d)(4) for preventing, reducing, or ameliorating unavoidable losses of valuable coastal environmental or recreational resources when such losses result from coastal energy activity;

(c) Grants under subsection (c)(1) for the study of, and planning for significant economic, social, or environmental consequences in the coastal zone when such consequences result from the siting, construction or operation of new or expanded energy facilities;

(d) Credit assistance under subsections d(1) and d(2) and appropriate forms of repayment assistance under subsections d(3) and b(5)(A) to provide new or improved public facilities or public service required as a result of coastal energy activity;

(e) Grants under subsection c(2) to assist coastal States likely to be affected by outer continental shelf energy activity in carrying out their responsibilities under the Outer Continental Shelf Lands Act.

§ 931.2 Objectives of the CEIP.

(a) The principle objectives of the CEIP are:

(1) To improve and strengthen coastal zone management in the United States by providing financial assistance only for programs and projects that are in accord with the policy of the Coastal Zone Management Act and the coastal zone management objectives of the individual States.

(2) To preserve and enhance the Nation's valuable coastal recreational and environmental resources by

(i) Encouraging the timely and thorough planning for and the management of adverse consequences in the coastal zone caused by energy facility siting and energy resource development; and

(ii) Encouraging coastal States and local governments to exercise effectively their responsibilities to minimize losses to valuable coastal environmental or recreational resources that could result from coastal energy activity.

(3) To advance the National objective of obtaining a greater degree of energy self sufficiency by encoraging the rational and timely development of domestic coastal energy resources and energy resource transportation systems.

(4) To protect and improve the quality of the human environment in the coastal zone by providing financial assistance to coastal States and units of local government for new and improved public facilities required as a result of coastal energy activity.

(5) To provide financial assistance that is simple to administer and that permits the coastal States and units of local government a high degree of control and discretion.

(6) To assist coastal States likely to be affected by outer continental shelf energy activity in carrying out their responsibilities under the OCS Lands Act.

(b) The CEIP will be administered in a manner that will strike a balance between the major National goals of obtaining a greater degree of energy self sufficiency and protecting the coastal environment:

(1) Only coastal energy activity necessary for the rational, timely and orderly development of the Nation's coastal energy resources will be encouraged; and

(2) Unnecessary development in the coastal zone will be discouraged by providing financial assistance only for those public facilities and public services that are actually needed because of coastal energy activity.

Subpart B—Definitions

§ 931.9 Index to definitions.

The following listing includes important terms defined in Part 931 keyed to the section where they are defined.

Term	Section
Act	931.10(a)
Assistant Administrator	931.23
Borrower	931.62
Coastal energy activity	931.13
Coastal zone	931.11
Development	931.17(d)
EIS	931.24(b)
Eligible coastal State	931.25
Energy facility	931.18
Exploration	931.17(c)
First landed	931.121(a)
Fund	931.12
In close proximity to	931.13(d)
Joint funding	931.98(c)
Loss	931.72(c)
NEPA	931.24(a)
New or expanded coastal energy activity	931.15
New or expanded energy facility	931.19
New or improved public facility	931.42(d)
New or improved service	931.42(e)
NOAA	931.22
OCZM	931.22
Outer Continental Shelf	931.16
Outer Continental Shelf energy activity	931.17
Person	931.72(e)
Production	931.17(e)
Public facility	931.42(a)
Public service	931.42(c)
Section	931.10(b)
Significantly affected	931.14
Unavoidable	931.72(d)
Unit of general purpose local government	931.20
Unit of local government	931.21
Valuable environmental resource	931.72(a)
Valuable recreational resource	931.72(b)

§ 931.10 Act.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended, (16 U.S.C. 1451 et. seq.).

(b) The term "section" or "subsection" means a section or subsection of the Coastal Zone Management Act of 1972, as amended, unless it is clear from the context that some other meaning is intended.

§ 931.11 Coastal zone.

The "coastal zone" is that area of land and water whose boundaries are determined by a State under § 920.11 of this chapter for purposes of the development of a coastal zone management program under section 305, or under § 923.11 of this chapter for purposes of administering a coastal zone management program under section 306, or as part of a management program which is consistent with the policies set forth in section 303. Such boundaries must be approved by the Assistant Administrator.

§ 931.12 Fund.

The term "Fund" means the Coastal Energy Impact Fund established under section 308(h).

§ 931.13 Coastal energy activity.

(a) The term "coastal energy activity" is limited to the following activities:

(1) Any Outer Continental Shelf energy activity;

(2) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas; or

(3) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 3(10) of the Deepwater Ports Act of 1974 (33 U.S.C. 1502(10)).

(b) An activity is a "coastal energy activity" only to the extent that:

(1) The conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion or operation of any equipment or facility; and

(2) The Assistant Administrator determines that a technical requirement exists which necessitates that such siting, construction, expansion, or operation be carried out in, or in close proximity to, the coastal zone of any coastal State.

(c) Such technical requirements are limited to:

(1) Dependency on coastal waters;

(2) Safety;

(3) Proximity to oil, natural gas, or coal fields;

(4) Location of markets;

(5) Federal siting regulations or decisions; and

(6) Type and amount of required land.

(d) The siting, construction, expansion, or operation of any equipment or facility shall be considered to be "in close proximity to" the coastal zone of any coastal State if such coastal zone has been or is likely to be significantly affected by such siting, construction, expansion, or operation.

§ 931.14 Significantly affected.

The coastal zone of a coastal State is "significantly affected" by the siting, construction, expansion, or operation of an energy facility if such siting, construction, expansion, or operation:

(a) Causes or is likely to cause population changes in the coastal zone;

(b) Changes or is likely to change employment patterns in the coastal zone, including those in fishing and tourism;

(c) Damages or threatens to damage or degrade any valuable environmental or recreational resources in the coastal zone, including ambient air, water or noise quality, or any other Federal, State, or local environmental standard.

(d) Increases or threatens to increase risks to public health, safety, or real property in the coastal zone.

§ 931.15 New or expanded coastal energy activity.

(a) The term "new or expanded coastal energy activity" means any coastal energy activity of the siting, construction, expansion, initial operation, or replacement, in whole or in part, of any equipment or facility required by the conduct, support, or facilitation of such activity takes place after July 26, 1976.

(b) The term "expansion" includes both the physical expansion of a facility and the expansion of the output of the facility.

(c) The term "initial operation" is intended to include the case in which a previously operating but then idle energy facility is reactivated after July 26, 1976.

§ 931.16 Outer Continental Shelf.

The term "Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in 43 U.S.C. 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

§ 931.17 Outer Continental Shelf energy activity.

(a) The term "Outer Continental Shelf energy activity" means:

(1) Any exploration for, or any development or production of, oil or natural gas from the Outer Continental Shelf; or

(2) The siting, construction, expansion or operation of any new or expanded energy facilities that are directly required by such exploration, development or production.

(b) The term "directly" required by Outer Continental Shelf energy activity refers to a new or expanded energy facility that has a technical requirement that necessitates its location in or in close proximity to the coastal zone and is:

(1) Any equipment or facility used primarily in the exploration for or the development, production or transportation of any oil or natural gas from the Outer Continental Shelf; or

(2) Any facility or equipment used primarily for the manufacture, production or assembly of equipment, machinery, or devices that are necessary to and ordinarily used in the exploration for, or development or production or transportation of oil or natural gas from the Outer Continental Shelf.

Such equipment and facilities include but are not limited to:

(i) Gas processing and treatment plants

(ii) Platform fabrication yards

(iii) Pipe coating yards

(iv) Service bases

(v) Marine pipelines

(vi) Drilling rigs and drill ships

(vii) Production platforms

(viii) Offshore terminals

(ix) Marine repair and maintenance facilities

(x) Oil storage terminals

(c) The term "exploration" means the process of searching for oil or natural gas, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are uses to detect or imply the presence of oil or natural gas, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to determine whether to proceed with development and production.

(d) The term "development" means those activities which take place following discovery of oil or natural gas in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the oil and gas discovered.

(e) The term "production means those activities which take place after the successful completion of any means for the removal of oil or natural gas, including such removal, field operations transfer of oil or natural gas to shore, operation monitoring, maintenance, and work-over drilling.

§ 931.18 Energy facility.

(a) The term "energy facility" means any equipment or facility which is or will be used primarily:

(1) In the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(2) For the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in the activities described in paragraph (a)(1) of this section.

(b) The term includes:

(1) Electric generating plants, including those utilizing fossil or biomass fuels, nuclear power, solar energy, ocean thermal energy conversion, tidal, wave or, wind power, or geothermal energy, and associated transmission systems;

(2) Petroleum refineries and associated facilities;

(3) Gasification plants;

(4) Facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas;

(5) Uranium enrichment or nuclear fuel processing facilities;

(6) Coal storage, transportation or transfer facilities;

(7) Drilling rigs, platforms, subsea completions, and subsea production systems;

(8) Construction yards for platforms and exploration rigs, pipe coating yards, bases supporting platforms and pipeline installation, and crew and supply bases;

(9) Oil and gas storage facilities;

(10) Marine pipeline systems;

(11) Oil and gas processing facilities;

(12) Facilities, including deepwater ports, for the transfer of petroleum;

(13) Facilities for geopressurized gas; and

(14) Terminals which are associated with any of the foregoing.

§ 931.19 New or expanded energy facility.

The term "new or expanded energy facility" refers to an energy facility whose siting, construction, expansion, initial operation, or replacement, in whole or in part, takes place after July 26, 1976.

§ 931.20 Unit of general purpose local government.

(a) The term "unit of general purpose local government" means:

(1) Any political subdivision of any coastal State that (in whole or in part) is located in or has authority over any portion of such State's coastal zone; or

(2) Any political subdivision of any coastal State that is located within a political subdivision of such coastal State that (in whole or in part) is located in or has authority over any portion of such State's coastal zone; or

(3) Any special entity created by such coastal State or political subdivision that (in whole or in part) is located in or has authority over any portion of such State's coastal zone.

(b) The term "unit of general purpose local government" is limited to those entities described in subsection (a) of this section that provide any public facility or public service financed in whole or in part by taxes or user fees.

§ 931.21 Unit of local government.

The term "unit of local government" means any unit of general purpose local government, as defined in § 931.20 or any agency recognized or designated as an areawide or regional comprehensive

planning and development agency pursuant to Office of Management and Budget Circular A–95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, or under Title IV of the Intergovernmental Cooperation Act of 1968.

§ 931.22 NOAA and OCZM.

(a) The acronym "NOAA" means the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(b) The acronym "OCZM" means the Office of Coastal Zone Management of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 931.23 Assistant Administrator.

The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 931.24 NEPA and EIS.

(a) The acronym "NEPA" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) The acronym "EIS" means an Environmental Impact Statement prepared pursuant to NEPA.

Subpart C—Basic Eligibility

§ 931.25 Eligible coastal State.

(a) No coastal State is eligible to receive an allotment or any financial assistance under this Part unless such State:

(1) Has a management program that is approved under section 306; or

(2) Is receiving a grant under sections 305(c) or (d); or

(3) Is making, in the judgment of the Assistant Administrator, satisfactory progress toward the development of a management program that is consistent with the policies set forth in section 303; and

(4) The governor of such State has designated a State agency or agencies:

(i) To apply for financial assistance under section 308;

(ii) To assure, to the maximum extent practicable, that financial assistance provided under section 308 is apportioned, allocated, and granted to units of local government within such State on a basis which is proportional to the extent to which such units need such assistance; and

(iii) To receive and administer section 305 grants or section 306 grants pursuant to § 923.91 of this chapter, or to administer a State coastal management program which is consistent with the policies set forth in section 303.

(b) While preferable in terms of coordination, it is not required that a single agency perform all three functions stated in (a)(4) and it is permissible to designate a separate agency to apply for and receive financial assistance under section 308(c)(2). However, in the event different agencies are designated under (a)(4)(i), (ii), and (iii), one agency must be designated to assure coordination with the others.

§ 931.26 Satisfactory progress.

(a) The Assistant Administrator shall judge that a State is making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303 if one of the following conditions is met:

(1) A coastal State has exhausted its eligibility for program development funding under section 305 without achieving program implementation approval under section 306, but is still pursuing development and implementation of a management program consistent with the policies set forth in section 303; or

(2) A coastal State's eligibility for program funding under section 305 or section 306 has been suspended or terminated but the State is making adequate efforts to reacquire eligibility under sections 305 or 306 while still pursuing development of a management program consistent with the policies set forth in section 303; or

(3) A coastal State is otherwise pursuing a comprehensive management program which is consistent with the policies set forth in section 303 and for good cause shown is not developing or implementing such program under sections 305 or 306.

(b) The phrase "consistent with the policies set forth in section 303" refers to a management program which incorporates:

(1) Policies which provide for the preservation, protection, development, and, where possible, the restoration or enhancement of the resources of the State's coastal zone;

(2) Provisions which insure wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values, as well as to needs for economic development. Such provisions shall include, but are not limited to:

(i) Identification of a coastal zone which is capable for being delineated and which is subject to management under the program;

(ii) Identification of permissible land and water uses for the area within the coastal zone;

(iii) Procedures for assuring that land and water uses of regional and national benefit are not arbitrarily restricted or excluded in policies or management mechanisims developed pursuant to the State's program;

(iv) State and local legal authorities and organizational structures sufficient to effectuate management over identified land and water uses within the coastal zone; and

(v) Coastal zone water pollution and air pollution control consistent with the requirements of the Clean Water Act, as amended, and the Clean Air Act, as amended.

(3) An adequate opportunity for Federal agencies having interests affecting the State's coastal zone to participate in the development of the State's management program and have their views adequately considered; and

(4) An adequate opportunity for local governments, State and regional agencies, commercial and industrial groups, and the general public to participate in the development of the State's management program and have their views adequately considered.

§ 931.27 Eligibility determination.

Before allotting or awarding any financial assistance to any coastal State under this Part the Assistant Administrator will determine whether the State is eligible as described in this Subpart C. No allotments will be made and no funds will be awarded if the State is not eligible, and all funds previously allotted will be held in the State's account until the end of the fiscal year in which the State is deterimined to be not eligible. If the State has not regained eligibility under this Subpart by the end of that fiscal year those funds will be reallotted among other eligible coastal States as soon as practicable.

Subpart D—Planning for the Consequences of Energy Facilities

§ 931.30 General.

This subpart sets forth the objectives of providing planning assistance to coastal States under sections 308(c)(1) and 308(b) and its allowable uses. It also describes procedures for allotting section 308(c)(1) moneys among eligible coastal States and for applying for planning assistance under sections 308(c)(1) and 308(b). Procedures for allotting section 308(b) assistance are described in Subpart K.

§ 931.31 Objectives.

The objectives of assistance under this subpart are:

(a) To assist coastal States and units of local government in the study of and planning for any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such State's coastal zone as a result of the siting, construction, expansion, or operation of new or expanded energy facilities;

(b) To encourage rational, timely, and thorough planning for and the management of the impacts from energy resource development;

(c) To help coastal States and units of local government plan for the provision of public facilities and public services required as a result of OCS energy activity.

§ 931.32 Eligibility for planning assistance under this subpart.

(a) A coastal State is eligible for financial assistance if it meets the basic eligibility requirements of Subpart C.

(b) A unit of local government may apply for assistance under this Subpart through its State.

§ 931.33 Allowable uses of planning grants.

(a) Allowable uses of section 308(c)(1) funds include:

(1) Studying and planning for any economic, social, or environmental consequence that has occurred, is occuring, or is likely to occur in the coastal zone as a result of siting, constructing, expanding of operating new or expanded energy facilities that significantly affect the coastal zone including, but not limited to, the following:

(i) Effects on population;

(ii) Effects on employment patterns;

(iii) Effects on demand for housing, and public facilities and services;

(iv) Effects on economic resources such as tourism and fishing;

(v) Effects on environmental and recreational resources such as wetlands, beaches, barrier islands, estuarine and marine sanctuaries, and air, water and noise quality.

(vi) Effects on ecological systems and wildlife habitat;

(vii) Effects on shoreline erosion;

(viii) Effects on public safety;

(ix) Effects on local economic conditions such as local price inflation;

(x) Effects on tax and user fee revenues and intergovernmental transfers.

(2) Planning studies, such as the following, provided they are related to the siting, construction, expansion or operation of new or expanded energy facilities that significantly affect the coastal zone.

(i) Analyzing federal, state or local regulatory decisions or policies;

(ii) Performing cost/benefit analyses or otherwise comparing the consequences of alternative energy facility sites or types;

(iii) Devising strategies or plans for protecting valuable coastal environmental or recreational resources;

(iv) Devising strategies for preventing or mitigating adverse social or economic impacts;

(v) Devising strategies or plans for maintaining or improving public safety;

(vi) Forecasting employment, population, public facility and service needs and costs, and tax or user-fee revenues.

(vii) Supplementing or coordinating on-going planning activities such as Water Quality Management Plans under the Clean Water and Air Quality Plans under the Clean Air Act.

(3) Any allowable use described in paragraphs (a)(1) or (2) of this section if it is related to the phasing out or termination of operation of new or expanded energy facilities.

(4) Paying for the reasonable costs of administering the provision of assistance under section 308 including designing and carrying out an intrastate allocation process as described in Subpart J.

(5) Developing and applying to specific locations and energy facilities an energy planning process that meets the requirements of section 305(b)(8).

(6) Preparing the environmental analysis required for any project that is funded under section 308.

(7) Planning for the provision of public facilities eligible for funding under section 308 including engineering feasibility studies.

(b) Allowable uses of section 308(b) planning grants under this Subpart include:

(1) Planning and study that are necessary to provide new or improved public facilities and public services which are required as a result of OCS energy activity including, but not limited to, the following:

(i) Architectual and engineering services for the design and construction of new or improved public facilities required as a result of OCS energy activity;

(ii) Preparing the environmental analysis required for any project or program which is necessary to provide new or improved public facilities or services required as a result of OCS energy activity;

(iii) Forecasting the demand for new or improved public facilities or services which may be required as a result of OCS energy activity;

(iv) Analyzing the effect of secondary development that may be induced by the construction of new or improved public facilities or the provision of public services required as a result of OCS energy activity; and

(v) Performing cost benefit analysis or otherwise evaluating or comparing the consequences of alternate sites, designs or types of public facilities and public services required as a result of OCS energy activity.

(2) Paying for the reasonable costs of administering the provision of assistance under section 308 including designing and carrying out the intrastate allocation process described in Subpart J to the extent that funding for these administrative costs is not available under section 308(c)(1).

(c) All awards and expenditures of funds under this Subpart are subject to the applicable requirements of Subpart I.

§ 931.34 Limitations.

(a) Grants awarded to a coastal State under section 308(c)(1) may not exceed 80 percent of the actual cost of the study or planning. States may use in-kind contributions as the non-Federal matching share in accord with Office of Management and Budget Circular A–102.

(b) Although the use of section 308(c)(1) planning assistance must be related to new or expanded energy facilities that significantly affect the coastal zone, there is no requirement that the use of this planning assistance be tied to the specific energy facilities on the planning inventory described in § 931.35 because it is recognized that the planning inventory will not in all cases capture every new or expanded energy facility.

(c) Section 308(c)(1) planning assistance may not be used for general, energy related, studies or plans divorced from actual, proposed, or likely new or expanded energy facilities that significantly affect the coastal zone.

§ 931.35 Planning inventory.

(a) At the end of each fiscal year the Assistant Administrator will compile for each eligible coastal State an inventory of new or expanded energy facilities that have significantly affected, are significantly affecting, or are likely to significantly affect the coastal zone of that State.

(b) The purpose of the planning inventory is:

(1) To identify those significant social, environmental or economic

consequences in the coastal zone that may be prevented, mitigated or controlled through proper study and planning; and

(2) To provide a basis for estimating the relative planning need among coastal States eligible to receive financial assistance under section 308(c)(1).

(c) To assure that the planning inventory reasonably reflects actual planning need, new or expanded energy facilities that significantly affect the coastal zone will be placed on the planning inventory only if:

(1) A state or federal permit has been applied for to site, construct, expand or initially operate such facility;

(2) The facility is described in an OCS exploration or development and production plan submitted to the Department of the Interior.

(3) The Assistant Administrator determines on the basis of reasonable evidence submitted by the eligible coastal State that such facility is likely to be sited, constructed, expanded or initially operated in the near future.

(d) To assure an equitable distribution of financial assistance among coastal States, facilities shall not be placed on the planning inventory or shall be removed from the planning inventory if:

(1) Such facility began operating at planned capacity in the fiscal year for which the inventory is compiled;

(2) Such facility has been on the inventory for a total of four fiscal years for which the State has received section 308(c)(1) assistance; or

(3) The Assistant Administrator determines that the study of, or planning for, the consequences of such facility is no longer required.

(e) The Assistant Administrator may allow facilities to remain on the inventory for more than four fiscal years if the State can demonstrate that such inclusion is necessary to prevent significant impacts on the coastal zone.

§ 931.36 Section 308(c)(1) allotment formula.

(a) The Assistant Administrator will develop a formula for allotting section 308(c)(1) funds among eligible coastal States. This formula will be designed to estimate the need to plan for the social, economic and environmental consequences associated with the siting, construction, expansion or operation of new or expanded energy facilities that significantly affect the coastal zone.

(b) Each fiscal year, before computing an allotment the Assistant Administrator will submit this formula to all eligible coastal States for review and comment. If appropriate the formula will be revised before any final allotments are calculated.

§ 931.37 Allotment of 308(c)(1) planning grants among coastal States.

(a) Funds available in a fiscal year under section 308(c)(1) shall consist of:

(1) Funds appropriated under section 308(c)(1) for that fiscal year;

(2) Funds allotted in previous fiscal years under section 308(c)(1) reverting to the Assistant Administrator under § 931.39 because they were not applied for by the recipient coastal State within the time periods allowed by that section;

(3) Funds allotted in previous years under section 308(c)(1) recalled under § 931.97 because such funds were expended for unauthorized uses; and

(4) Funds from any other sources that may be used in that fiscal year under section 308(c)(1).

(b) The Assistant Administrator will allot available section 308(c)(1) funds among eligible coastal States according to the following procedures.

(1) *State Review.* It is the intent of the Assistant Administrator to provide to each eligible coastal State thirty (30) days before the beginning of each fiscal year for which funds under section 308(c)(1) are available the following information:

(i) The inventory of new or expanded energy facilities (planning inventory) described in § 931.35; and

(ii) the allotment formula described in § 931.36. The States will have 30 days to submit comments to the Assistant Administrator who will revise the inventory or formula as appropriate. Final allotments will be calculated within 30 days after the end of the 30-day State review period.

(2) *Minimum Share.* The Assistant Administrator will allot to each eligible coastal State an equal minimum share. This minimum share will be an amount which in the Assistant Administrator's discretion is considered sufficient to allow the recipient State to effectively participate in the CEIP. However, the minimum share will not be less than $35,000.

(3) *Formula Share.* The funds remaining after the minimum shares are subtracted from the total amount available will be allotted according to the formula described in § 931.36.

(4) *Maximum Allotment.* An eligible coastal State's allotment of section 308(c)(1) funds will be the sum of the minimum share and the formula share except that no State's allotment may exceed 20% of the total amount available.

(i) If the sum of the minimum share and the formula share exceeds 20% of the amount available under section 308(c)(1) the allotment of such State will be reduced to an amount equal to 20% of the amount available. Any excess funds obtained by reducing State allotments will be redistributed among the other eligible coastal States using the allotment formula.

(ii) If after reducing any State's allotment to the maximum amount it is not mathematically possible to redistribute the excess funds without exceeding the 20% ceiling then the redistribution of such excess funds will be carried out without regard for the ceiling.

§ 931.38 Application for planning grants.

(a) Applications for planning assistance under this Subpart should be submitted as soon as allotments of section 308(c)(1) or section 308(b) funds are calculated.

(b) It is the intent of the Assistant Administrator to process completed applications within 45 days of receipt.

(c) Applications for assistance under this Subpart should be submitted on NOAA Form 36–25 and must contain the following certifications and information:

(1) A certification by the State agency designated under § 931.25 that the planning assistance has been or will be allocated within the State in accord with the intrastate allocation process described in subpart J of this part;

(2) A certification by the State agency designated under § 931.25(a)(4)(iii) that the planning assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) A showing, if the application for assistance has not been submitted to the Project Notification and Review System established by OMB Circular No. A–95 (Part I), that a memorandum of agreement for coordinating planning under section 308 has been consummated with appropriate areawide clearinghouses in the State's coastal zone, pursuant to Part IV, Attachment A, of OMB Circular A–95; and

(4) A brief description of the activity or activities to be performed indicating the relationship to allowable uses under § 931.33.

(d) In addition, applications for section 308(b) grants must contain assurances that the State will repay to the United States:

(1) Any amount received under section 308(b) that the Assistant Administrator determines was expended or committed by the State for

purposes not authorized under this Subpart,

(2) Any amount received under section 308(b) that is not expended or committed before the close of the fiscal year following the fiscal year in which the amount was awarded to the State.

§ 931.39 Reversion of funds allotted under section 308(c)(1).

(a) Subject to the requirements of subsection (b), allotted funds for which applications are not received in the fiscal year for which the funds are allotted will revert to the Assistant Administrator at the end of that fiscal year;

(b) Allotted funds, for which applications received in the fiscal year of allotment are disapproved or withdrawn, will remain available for reapplication for 60 days after disapproval or withdrawal without regard to the fiscal year limitation on the submission of applications established by paragraph (a).

(c) Funds reverting to the Assistant Administrator under this section will be realloted as soon as practicable among eligible coastal States according to the procedures of this Subpart.

Subpart E—Financing Public Facilities and Public Services

§ 931.40 General.

(a) This Subpart states the objectives for providing assistance to coastal States and units of general purpose local government to finance new or improved facilities and public services under sections 308(d) (1) and (2) and sections 308(b)(5) (B) and (C). This Subpart also describes the procedures for allotting section 308(d) credit assistance among eligible coastal States and the procedures for applying for credit assistance and section 308(b) formula grants to construct new or improved public facilities or to provide new or improved public services.

(b) The procedures for allotting section 308(b) formula grants are described in Subpart K.

§ 931.41 Objectives.

The objectives of assistance under this subpart are:

(a) To help coastal States and units of general purpose local government provide new or improved public facilities and public services needed because of coastal energy activity or OCS energy activity;

(b) To provide front-end financing that can be expected to be repaid later from revenues generated by the coastal energy activity;

(c) To assure that necessary development in coastal areas is consistent with State coastal zone management objectives, the safeguarding of valuable national coastal environmental and recreational resources, and public safety; and

(d) To discourage unnecessary development in the coastal zone by providing assistance only for those public facilities and public services actually needed because of coastal energy activity or OCS energy activity.

§ 931.42 Definitions.

(a) The term "public facility" includes, but is not limited to, the facilities listed in subsection (b) to the extent they are owned, operated, or financed by the State or unit of general purpose local government. The term "public facility" does not include facilities to the extent they primarily serve industrial facilities unless:

(1) Industrial user charges will be a primary source of revenue to repay the loan received or obligation guaranteed under this subpart; or

(2) The Assistant Administrator finds that the facility is necessary to prevent significant adverse impacts in the coastal zone.

(b) *Public Facility.* (1) *Education.* Day care centers; primary, secondary, and general vocational schools, including portable classrooms and temporary facilities; school equipment; libraries, including books and equipment;

(2) *Environmental protection.* Facilities and equipment used to: improve, monitor, or prevent degradation of air, water, noise or solid waste standards; prevent or mitigate damage to environmental or recreational resources; assure the continued viability of fish, shellfish, and wildlife habitat; prevent or control erosion. Land aquisition for environmental protection;

(3) *Government administration.* Facilities and equipment essential for general government administration;

(4) *Health care.* Emergency medical facilities and equipment, including ambulances; clinic and hospital buildings and equipment; alcohol and drug abuse centers; emergency shelter and sanitary facilities; and epidemiological screening or other assistance to assure community health.

(5) *Public safety and law enforcement.* Detention centers, police equipment and stations, fire stations and firefighting equipment, fire training centers, animal control facilities, communication facilities and equipment, and rescue facilities and equipment;

(6) *Recreation.* Facilities and equipment for amateur sports and performing arts, community recreational centers, local parks and playgrounds acquisition of parkland or beaches or of public access to such land or beaches;

(7) *Transportation.* Street and street lighting, roads, bridges, road maintenance equipment, parking associated with public facilities, docks, air and water navigation aids, canals and navigation facilities, air terminals in remote areas, mass transit including bus and ferry systems;

(8) *Public utilities.* Electric generating plants and distribution systems; natural gas distribution systems; solid waste collection systems; waste collection and treatment systems, including drainage; water supply systems; and telephone systems.

(9) *Housing.* Single and multi-family housing owned and operated by a public entity and all necessary public infrastructure to support public housing developments.

(c) The term "public service" means any service authorized by law to be provided by a State or unit of general purpose local government to the extent that it is provided or financed by a State or unit of general purpose local government. The term "public service" does not include a service to the extent it primarily serves industrial users unless:

(1) Industrial user charges will be a primary source of revenue to repay the loan received or obligation guaranteed under this Subpart; or

(2) The Assistant Administrator finds that this service is necessary to prevent or mitigate significant adverse impacts in the coastal zone.

(d) A public facility is considered "new or improved" if it is constructed, expanded, renovated, initially operated, or if its efficiency is improved after July 26, 1976.

(e) A public service is considered "new or improved" if:

(1) The proposed type or increased level of service was not offered in the fiscal year before the application for assistance for such service, or

(2) If it improves the efficiency of existing public services.

§ 931.43 Eligibility.

(a) To be eligible for financial assistance under this Subpart, a coastal State must meet the basic eligibility requirements of Subpart C.

(b) A unit of general purpose local government may apply for assistance under this Subpart through its State.

§ 931.44 Allowable uses.

(a) Credit assistance available from the Fund under sections 308(d) (1) and

(2) is to be used to finance new or improved public facilities and public services that are required as a result of coastal energy activity.

(b) Grant assistance under section 308(b) is to be used for the development of, and the carrying out of projects and programs necessary to provide new or improved public facilities and public services that are required as a result of OCS energy activity.

(c) The following are allowable project costs under this Subpart to the extent they are reasonable and necessary to provide new or improved public facilities or public services:

(1) Land acquisition including fee simple, leases, easements, and rights-of-way.

(2) Architectural, engineering, and other technical service fees or costs except that:

(i) Compensation must be comparable to the cost of similar work awarded through open competitive bidding;

(ii) Compensation must not be based on a cost plus a percentage-of-cost; and

(iii) Design and performance standards must conform to professionally recognized national standards.

(3) Construction expenses, including, but not limited to, construction materials, fixtures, appurtenances, and fixed machinery and equipment. The purchase of movable construction related equipment such as dump trucks and excavating equipment will be allowable only if expressly authorized in the grant or loan agreement;

(4) Site preparation and improvement;

(5) The acquisition of movable equipment essential for the maintenance of new or improved public facilities or services; and

(6) Public services to the extent that the applicant can illustrate that State or local funds will be available to meet the cost of the service in the future; or that the service is of the type that a one-time expenditure of funds will meet a stated goal without the dependency of future funding for successful completion.

(7) The assessment and mitigation of environmental, social, and economic impacts of the proposed project.

(8) The following, but only if the project or program is funded under sections 308(d) (1) or (2):

(i) Capitalized interest during construction for a project in which it is necessary or advantageous for the recipient to borrow funds to finance construction costs and where State law permits such a loan.

(ii) Capitalized interest during development limited to that which is required to meet interest payments after the project is operating but before income is sufficient to provide such payment. However, such amounts will be an eligible project cost only to the extent that the recipient does not have any other funds or sources of revenue for such interest payments.

(iii) Initial public service expenses (operating costs) including supply inventories, salaries and utilities limited to those required to meet public service expenses after the project is operating but before income is sufficient to provide for such services. However, such amounts will be an eligible project cost only to the extent that the recipient does not have any other funds or sources of revenue for such public service expense.

(d) All awards and expenditures of funds under this Subpart are subject to the applicable requirements specified in Subpart I.

§ 931.45 Credit assistance inventory.

(a) At the end of each fiscal year the Assistant Administrator will compile for each eligible coastal State an inventory of new or expanded coastal energy activities.

(b) The purpose of this inventory is:

(1) To identify those new or expanded coastal energy activities that have caused, are causing, or are likely to cause a need for new or improved public facilities and public services; and

(2) To provide a basis for estimating the relative need for credit assistance among eligible coastal States.

(c) To assure that the credit assistance inventory reasonably reflects actual need for new or improved public facilities and public services, a new or expanded coastal energy activity will be placed on the inventory only if the Assistant Administrator determines that such activity is likely to necessitate new or improved public facilities or public services, and

(1) A major state or federal permit has been approved to conduct such activity; or

(2) Such activity is described in exploration plans or production and development plans approved by the Department of the Interior; or

(3) The Assistant Administrator, based on reasonable evidence submitted by the State, determines that such activity is likely to be carried out in the near future.

(b) To assure an equitable distribution of credit assistance among coastal States, a coastal energy activity will not be placed on the inventory for a fiscal year if such activity:

(1) Was on the inventory in any preceding fiscal year in which credit assistance was allotted to the State on account of this activity; and

(2) The Assistant Administrator determines that adequate credit assistance was allotted to a coastal State as a result of such activity. The State may submit evidence to the Assistant Administrator showing the inadequacy of any credit assistance allotment.

§ 931.46 Allotment formula.

(a) The Assistant Administrator will develop a formula for allotting funds appropriated under sections 308(d) (1) and (2). This formula will be designed to estimate the need for new or improved public facilities and services and will be based on, and limited to, the following factors:

(1) The number of additional individuals who are expected to become employed in new or expanded coastal energy activity and will reside in the coastal State;

(2) The new population in the Coastal State associated with such energy activity; and

(3) The standardized unit costs for new or improved public facilities and public services required as a result of such expected employment and related new population.

(b) The Assistant Administrator may periodically review and, if appropriate, revise this formula on the basis of the best available data concerning the need for public facilities and services created by coastal energy activity. However before making any revisions in the formula the Assistant Administrator will submit any proposed changes to all eligible coastal States for comment.

§ 931.47 Allotment of credit assistance.

(a) *State review.* (1) It is the intent of the Assistant Administrator to provide to each eligible coastal State thirty (30) days before the beginning of each fiscal year for which funds under section 308(d)(1) have been appropriated the following information:

(i) The inventory of coastal energy activity described in § 931.45 on which the allotment of appropriated funds will be based;

(ii) Data on new employment and related new population for each activity on the credit assistance inventory;

(iii) The allotment formula described in § 931.46; and

(iv) A description of the procedures for computing the allotment.

(2) Eligible coastal States will have 30 days to submit comments on this information to the Assistant Administrator who will revise the inventory, employment and population

data, formula, and allotment computations as appropriate.

(3) Final allotments will be calculated no more than 30 days after the end of the 30-day State review period.

(b) *Allotment Computation.* After the State review described in paragraph (a) a public facility and public serviced need equivalency will be calculated for each activity shown on the credit assistance inventory by applying the allotment formula to each such activity. A State's need factor will be the sum of the need factors for all activities on that State's credit inventory. A State's allotment of credit assistance will equal the product of:

(1) The amount appropriated under section 308(d) (1) and (2); and

(2) The ratio of that State's public facility and public service need equivalency to the sum of the public facility and public service need equivalencies of all States.

§ 931.48 Recall and reversion of allotted credit assistance.

(a) This section applies only to credit assistance allotted under § 931.47.

(b) Allotted credit assistance may be recalled by the Assistant Administrator 30 days after notification of the State agency designated in § 931.25(a)(4).

(1) No credit assistance will be recalled before July 1 of the fiscal year in which the credit assistance was allotted.

(2) Allotted credit assistance for which an application or request for extension is submitted before July 1 will remain available to the State until award or the application is withdrawn or disapproved.

(3) The time for submitting applications will not be extended beyond January 1 of the following fiscal year.

(4) Allotted credit assistance for which timely applications have been disapproved or withdrawn will remain available to the State for reapplication for 90 days after the disapproval or withdrawal without regard to any limitations on the submission of applications established by this section.

(c) A request for extension must contain:

(1) The name of the expected applicant for the credit assistance;

(2) The use to which the assistance would be put;

(3) The amount of funding to be requested;

(4) The date an application is expected to be submitted; and

(5) An explanation of how the project is required as a result of coastal energy activity.

(d) Allotted funds for which neither an application nor a request for extension is received by the end of the fiscal year in which such funds were allotted will revert to the Assistant Administrator at the end of that fiscal year.

§ 931.49 Application for recalled or reverted credit assistance.

(a) Funds recalled by or reverted to the Assistant Administrator under § 931.48 will be available to all eligible coastal States by application according to the procedures of this section.

(b) Coastal States may submit applications for loans at any time.

(c) Priority among loan applications will be based on the priority in submitting a completed application.

(d) Under exceptional circumstances the Assistant Administrator may grant priority to a later application on the basis of:

(1) Immediacy of need;

(2) Degree of impact sought to be prevented or mitigated;

(3) Equity of distribution of CEIP credit assistance; and

(4) Availability of other financing, including private sources.

(e) No State will receive more than 50% of the amount available under this section in any fiscal year.

§ 931.50 Application for financial assistance to provide public facilities and services.

(a) Applications for credit assistance under this Subpart should be submitted on NOAA Form 36–23. Applications for formula grants should be submitted on NOAA Form 36–25 for construction projects and on NOAA Form 36–26 for nonconstruction projects. Applications should be submitted as soon as allotments of section 308(b) grants and section 308(d) credit assistance are computed.

(b) It is the intent of the Assistant Administrator to process completed applications within 45 days of receipt unless an EIS for the proposed project is required.

(c) All applications for assistance under this Subpart must contain the following:

(1) A certification by the State agency designated under § 931.25(a)(4)(ii) that the assistance has been or will be allocated within the State in accord with the intrastate allocation process described in Subpart J of this part;

(2) A certification by the State agency designated under § 931.25(a)(4)(iii) that the assistance will be used in a manner that is compatible with the State's developing, or consistent with the State's approved, coastal zone management program;

(3) For construction projects, as defined in Office of Management and Budget Circular A–102, the following:

(i) Environmental impact assessment data in sufficient detail to allow the Assistant Administrator to determine whether an EIS will be required under NEPA;

(ii) Copies of all necessary Federal, State and local permit or license applications or approvals;

(iii) A map showing the project in relation to the coastal zone; and

(iv) A Preliminary Engineering Report.

(4) A showing that such applications for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A–95 (Part I).

(d) In addition to the certifications and information described in subsection (c) applications for credit assistance must contain the following information:

(1) A description of the coastal energy activity, the impacts that are sought to be prevented or mitigated, and the proposed public facility or public service in sufficient detail to allow the Assistant Administrator to verify that the proposed public facility or service is required as a result of coastal energy activity.

(2) An estimate of current levels of utilization of public facilities and public services in the borrower's jurisdiction similar to those for which credit assistance is sought; and

(3) Appropriate fiscal schedules, including financial and economic information, required to evaluate the payback potential on the request for credit assistance. Such fiscal schedules will include the best available historical data on the revenues and expenditures of the borrower for five years preceding the year of application.

(4) The information contained in the fiscal schedules described in paragraph (b)(3) of this section will be used to negotiate with the borrower the terms and conditions of the loan or guarantee agreements as described in § 931.52(c) and § 931.53(f) and will be used in setting the conditions under which repayment assistance will be available, as incorporated into the terms and conditions of the loan or guarantee agreements.

(e) In addition to the certifications and information described in subsection (c) applications for formula grants must contain the following:

(1) A description of the OCS energy activity, the impacts sought to be prevented or mitigated, and the

proposed public facility or public service in sufficient detail to allow the Assistant Administrator to verify that the proposed public facility or service is required as a result of OCS energy activity;

(2) Assurances that the State will repay to the United States:

(i) Any amount received under section 308(b) that the Assistant Administrator determines was expended or committed by the State for purposes not authorized under this Subpart,

(ii) Any amount received under section 308(b) that is not expended or committed before the close of the fiscal year following the fiscal year in which the amount was awarded to the State.

(f) Before awarding any financial assistance under this Subpart the Assistant Administrator will determine whether an EIS will be required and prepare an EIS when necessary.

§ 931.51 Special requirements for section 308(d)(1) loans.

(a) *Interest rate.* The interest rate shall be the current average market yield for outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans. The Assistant Administrator may under special circumstances approve lower interests rates. The Assistant Administrator will provide to all coastal States criteria for determining under what conditions special circumstances will be found. These criteria will be updated periodically.

(b) *Eligibility.* A loan to an otherwise eligible borrower may be made even though the fiscal schedules described in § 931.50(d)(3) or other financial information does not indicate adequate coverage for debt service. Loans may be made under section 308(d)(1) to State agencies established for the purpose of financing public facilities. Such loans shall be subject to such terms and conditions as the Assistant Administrator may prescribe.

(c) *Loan agreements.* Each loan agreement will incorporate in detail the conditions of the loan including repayment assistance described in Subpart F of this part. These conditions will be binding upon the Assistant Administrator and the borrower.

(d) *Repayment schedule.* Each loan agreement will contain a mutually agreed-upon repayment schedule, which will be tailored to the repayment ability of the borrower as indicated in the fiscal schedule described in § 931.50(d)(3) or in other financial information. This repayment schedule will set forth the borrower's annual loan service (principal and interest) payments. The borrower may accelerate payment with no prepayment penalties.

(e) *Maturity of loans.* Loans will be made for a period not to exceed the normal useful life of the project. In no event will a loan be made with a maturity exceeding 30 years from the date of the final loan closing.

(f) *Security.* Loans made under section 308(d)(1) will be secured as determined by the Assistant Administrator and in the manner customary or legally allowed under respective State statute and local government charters and ordinances for projects of the type for which credit assistance is requested. NOAA's interest may be perfected, where appropriate, by a filing under the Uniform Commercial Code as adopted by the subject State, or, in any jurisdiction where the Uniform Commercial Code has not been enacted, by the recording of a mortgage.

(g) *Disbursement of loan funds.* Loan funds may be disbursed on a phased basis. Approval of such loan advances will be made after receipt by the Assistant Administrator of:

(1) A favorable preliminary approving opinion of bond counsel on the validity of the proposed interim and final bond or promissory note and,

(2) Satisfactory evidence of receipt of firm construction, service, and/or supply bids as well as compliance with the other loan conditions required to be fulfilled before disbursement. Advances or partial purchases will ordinarily be made in units of not less than 25 percent spaced so as to enable the borrower to pay incurred costs as they come due. Advances must be deposited in a bank with Federal Deposit Insurance Corporation coverage, and the balances exceeding such coverage must be collaterally secured as provided in 12 U.S.C. 265.

(h) *Interim financing on loan projects.* The terms and conditions of the interim financing are subject to prior approval. Upon request, the borrower will be provided with an appropriate letter of intent to aid the borrower in obtaining interim financing from sources other than the CEIP.

(i) *Bond counsel.* The borrower shall retain bond counsel to represent it in each loan transaction. Such bond counsel must receive the prior approval of the Assistant Administrator.

§ 931.52 Special requirements for section 308(d)(2) Federal guarantees.

(a) *Eligibility.* A borrower's legal debt will be considered eligible for guarantee under this subpart if the Secretary of the Treasury approves such debt and it meets other requirements set forth in section 308(f).

(b) *Taxable obligations.* The interest paid on any obligation which is guaranteed under section 308(d)(2) and which is received by the purchaser of such obligation (or the purchaser's successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(c) *Interest subsidy.* The Assistant Administrator may pay out of the Fund, pursuant to the terms of the bond or other evidence of indebtedness, to the coastal State or the unit of general purpose local government issuing an obligation guaranteed under section 308(d)(2) not more than the portion of the interest on such obligation as exceeds the amount of interest that would be due at a comparable rate for loans made under section 308(d)(1) at the time the obligation is guaranteed by the Assistant Administrator.

(d) *Fees for guarantees.* A fee will be levied for providing a Federal guarantee. This fee will be set on the basis of the administrative costs incurred in providing and monitoring such guarantee. The fee may be waived in the event repayment assistance (as described in Subpart F of this part) is required.

(e) *Default procedures and guarantee incontestability.* If a borrower defaults on a bond or other evidence of indebtedness guaranteed under the Fund, the holder of the bond or other evidence of indebtedness may demand, pursuant to the terms of the bond or other evidence of indebtedness, payment from the Assistant Administrator of the principal and accrued interest of the obligation in accord with section 308(f)(5)(B). The validity of such a guarantee shall be considered incontestable, except when the holder of the obligation is guilty of fraud or misrepresentation or was aware of fraud or misrepresentation at the time he purchased the obligation.

(f) *Guarantee agreements.* Each obligation guaranteed under this subpart will entail agreements setting forth in detail the conditions under which the repayment assistance described in subpart F of this part will be available. These conditions will be binding upon the borrower. In addition, all provisions in the underlying documents for obligations guaranteed under section 308(d)(2) will be subject to the approval and will contain such additional provisions as the Assistant Administrator may require.

(g) *Bond counsel.* The borrower shall retain bond counsel to represent it in each guarantee transaction. Such bond counsel must receive the prior approval of the Assistant Administrator.

Subpart F—Repayment Assistance

§ 931.60 General.

This Subpart sets forth objectives, purposes and procedures for awarding various forms of repayment assistance under sections 308(d)(3) and 308(b)(5)(A).

§ 931.61 Objectives.

The objectives of the repayment assistance are to ensure that:

(a) Credit obligations will be modified and tailored according to ability to repay so that defaults can be avoided; and

(b) Net fiscal losses to the States or units of general purpose local government resulting from coastal energy activity will be minimized.

§ 931.62 Definitions.

The term "borrower" refers to an eligible coastal State, a special purpose agency of the State, or a unit of general purpose local government that has been awarded credit assistance under sections 308(d)(1) or (d)(2).

§ 931.63 Purposes.

(a) The purpose of repayment assistance under sections 308(d)(3)(A–C) is to assist a borrower who is temporarily unable to meet scheduled repayments of loans or guaranteed obligations.

(b) The purpose of a repayment grant under section 308(b) is to assist a borrower in meeting scheduled repayments of a guaranteed bond when the remedies of sections 308(d)(3)(A–C) are inadequate.

(c) The purpose of a repayment grant from a State's allotted credit assistance from the Fund under section 308(d)(3)(D) is to assist a borrower in meeting scheduled repayments of a loan or guaranteed obligation when the remedies of sections 308(d)(3)(A–C) are inadequate and formula grants are not available for that purpose. If the State's allotment is insufficient, a grant will be made from the Fund.

§ 931.64 Sources of repayment assistance.

(a) *Primary sources.* The primary sources of repayment assistance are modification of credit assistance terms and conditions under section 308(d)(3)(A), refinancing of a loan under section 308(d)(3)(B), or making a supplemental loan under section 308(d)(3)(C) to enable the borrower to repay principal and interest pursuant to the terms of a loan or guaranteed obligation.

(b) *Secondary sources.* If the borrower is unable to meet scheduled repayments by means of one or more of the primary sources of repayment assistance, and if the inability to repay results from a change in scope of the coastal energy activity or the related new population, the secondary sources of repayment assistance may be used to meet obligations. These secondary sources are the proceeds of the State's allotment of formula grants under section 308(b) and grants from the State's allotment of moneys from the Fund under section 308(e)(1), or directly from the Fund if the State's allotment is insufficient.

§ 931.65 General eligibility.

(a) A borrower is eligible for repayment assistance only if:

(1) It has been awarded a loan under section 308(d)(1) or a guarantee under section 308(d)(2); and

(2) It has submitted a report, as required under § 931.66, updating the fiscal schedules described in § 931.50(d)(3).

(b) A borrower does not have to be in default before qualifying for repayment assistance. The default of a borrower will nevertheless automatically occasion review for repayment assistance by the Assistant Administrator.

§ 931.66 Reports.

After submitting its original credit assistance application, and until the full repayment of its loan or guaranteed obligation, the borrower shall submit periodically to the Assistant Administrator a report updating the information described in § 931.51(c). The frequency of submission of this report will be established by the Assistant Administrator in consultation with the borrower. This report should contain whatever new information the borrower has received and can document concerning the coastal energy activity and its likely effects on revenues and expenditures.

§ 931.67 Review for repayment assistance.

(a) At the request of the borrower or on the initiative of the Assistant Administrator, a review for repayment assistance will be carried out. Before the initiation of this review by the Assistant Administrator, the borrower must submit a report (described in § 931.66) updating the fiscal schedules described in § 931.50(d)(3). The Assistant Administrator will examine the information and forecasts contained in the report, particularly those relating to the status and effects of the coastal energy activity involved.

(b) All terms and conditions of the loan or guarantee, as enumerated in the loan or guarantee agreements, will remain in effect pending the review for repayment assistance.

(c) Even when the likelihood of eventual repayment assistance seems high, the Assistant Administrator will not normally require that the borrower raise its tax rates above or alter its tax methods from those generally prevailing when the applicant is requesting repayment assistance. However, if the tax base or revenues available to the borrower are reduced for reasons unrelated to the failure of the economic activity connected with energy development, the borrower will be expected to meet its principal and interest payments according to the loan or guarantee.

§ 931.68 Award of repayment assistance.

(a) It is the Assistant Administrator's intent to offer repayment assistance within 45 days after the request for repayment assistance described in § 931.67, if, pursuant to the terms and conditions of the loan or guarantee agreements, the borrower is found unable to meet its annual loan service payment or obligation under a guarantee in accord with its repayment schedule because the economic activity generated by the coastal energy activity and associated facilities have failed to provide adequate revenues.

(b) If the Assistant Administrator finds that any coastal State or unit of general purpose local government which is a borrower is unable to meet its obligations pursuant to a loan made under section 308(d)(1) of the Act because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable the State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Assistant Administrator shall, after review of the information submitted by the State or unit pursuant to section 308(e)(3) of the Act, take, subject to the special conditions contained in the loan agreement, any of the following actions:

(1) Modify appropriately the terms and conditions of such loan;

(2) Refinance such loan;

(3) Make a supplemental loan to the State or unit, the proceeds of which shall be applied to the payment of

principal and interest due under such loan; and

(4) Make a grant to the State or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan.

(*Comment.* The award of repayment assistance will be based only on an objective comparison of the information submitted in the updating report as described in § 931.66 with the terms and conditions of the original loan or guarantee agreements.)

(c) When the Assistant Administrator offers one of the courses of action in § 931.68(b)(1–4), the borrower may submit to the Assistant Administrator a formal acceptance of the recommended form of repayment assistance. In the case of a repayment grant from the proceeds of a State's formula grant under section 308(b) for a bond guaranteed under section 308(d)(2), the borrower shall submit this formal acceptance through the State agency designated under § 931.25(a)(4)(i), and the acceptance shall include the adequate assurances required by § 931.50(e)(2). The repayment assistance will take effect as soon as the Assistant Administrator receives the formal acceptance.

(d) If the formula grants allotted the State are insufficient for all the repayment grants recommended by the Assistant Administrator in a fiscal year, the State agency designated under § 931.25(a)(4)(i) shall indicate which bonds it wishes to retire with the proceeds of available formula grants, giving priority to local bonds in accordance with section 308(b)(5)(A). Those borrowers whose bonds the State has indicated it cannot retire with the proceeds of formula grants may request repayment grants from the State's allotment of credit assistance and, when necessary, which may be awarded directly from the Fund. Borrowers in States that have no allotted formula grants may request the recommended repayment grants, which will be awarded from the State's allotment of credit assistance and, when necessary, directly from the Fund.

(e) If, after the review for repayment assistance, the Assistant Administrator determines that no repayment assistance is warranted, or if the borrower does not formally accept such assistance, the borrower will remain subject to the terms and conditions of the loan or guarantee and to the requirements of Subpart I of this part.

§ 931.69 Appeal procedure.

(a) Whenever a dispute arises concerning the Assistant Administrator's finding made pursuant to § 931.68(a) regarding the existence of conditions which require an offer of repayment assistance the borrower may appeal the Assistant Administrator's decision to the Administrator of NOAA by submitting a request for review to the Office of the Administrator of NOAA.

(b) The Administrator of NOAA will issue a written decision on the appeal within 60 days of the borrower's request for review.

(c) The appeal procedure provided for in paragraphs (a) and (b) of this section is intended to provide a timely and impartial forum for resolving disputes concerning repayment assistance. Such appeal procedures may be initiated by the borrower, but do not expressly or by implication limit the borrower's other remedies at law or in equity. The borrower may seek appropriate judicial relief in a court of competent jurisdiction without the consent of the Assistant Administrator or the Administrator of NOAA, and without first having exhausted the appeal procedures provided in paragraphs (a) and (b) of this section.

Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources

§ 931.70 General.

This Subpart states the objectives for awarding environmental and recreational grants to eligible coastal States under section 308 (b)(5)(C) and (d)(4), and describes their allowable uses. It also describes the procedures for allotting section 308(d)(4) grants and the procedures for applying for environmental recreational grants.

§ 931.71 Objectives.

The objectives for providing assistance under sections 308(b)(5)(C) and 308(d)(4) are:

(a) To help coastal States and units of local government in such States to prevent, reduce or ameliorate losses in the coastal zone of valuable environmental or recreational resources when such losses result from coastal energy activity;

(b) To ensure that the person or persons responsible for these environmental or recreational losses pay for their full cost whenever possible; and

(c) To encourage the prevention of environmental or recreational losses by providing assistance only when the losses cannot be prevented through a reasonable exercise of State or local regulatory authorities.

§ 931.72 Definitions.

(a) The term "valuable environmental resource" refers to any of the following to the extent they are located in a State's coastal zone.

(1) Areas of land or water that are or have been largely in a natural state, or whose value derives primarily from ecological considerations;

(2) Important animal and plant populations and their habitat;

(3) Air, water, or noise quality; or

(4) An area that has been designated under a State's approved coastal zone management program or other regional, State or local plans as an area of particular concern for environmental purposes.

(b) The term "valuable recreational resource" refers to areas of land or water located in a State's coastal zone that have characteristics making them desirable for one or more types of recreational activities, or which have been designated under a State's approved coastal zone management program, or other regional, State or local plans, as areas of particular concern or potential use for recreational, preservation or restoration purposes. Included are areas that have important cultural, historic or archeological significance which are essential to the well being of all citizens.

(c) The term "loss" refers to any damage to, or degradation of, or any threat of damage to, or degradation of, a valuable environmental or recreational resource, including the impairment or threat of impairment of public access to that resource and any degradation, or threat of degradation, of the use of a resource that may result from overcrowding.

(d) A loss of a valuable environmental or recreational resource will be considered "unavoidable" if:

(1) The loss is caused by coastal energy activity; and

(i) the loss cannot be attributed to an identifiable person or persons; or

(ii) the costs of reduction or amelioration of the loss cannot feasibly be directly or indirectly assessed against an identifiable person or persons because no reasonable cause of action exists for the collection of money damages; or

(2) The loss is *projected to occur* as a result of current or future coastal energy activity and funds are sought to design, implement, or administer strategies, or projects to prevent, reduce or ameliorate such loss.

(e) The term "person" means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the

Federal Government; any State, regional, or local government; or any entity of any such Federal, State, regional, or local government.

§ 931.73 Eligibility.

(a) To be eligible for assistance under sections 308(b)(5)(C) and 308(d)(4), a coastal State must meet the basic eligibility requirements of Subpart C of this part.

(b) A unit of general purpose local government may apply for financial assistance under this Subpart from its State.

§ 931.74 Allowable uses.

(a) Assistance is provided in sections 308(b)(5)(C) and 308(d)(4) to help States and units of local government design and implement projects to prevent, reduce or ameliorate unavoidable losses to valuable coastal environmental and recreational resources resulting from coastal energy activity including, but not limited to:

(1) Protection restoration, replacement, acquisition or improvement of environmental or recreational resources.

(2) The design and implementation of programs and strategies to prevent, reduce or ameliorate unavoidable environmental and recreational losses, including the cumulative effects of coastal energy activity.

(3) The cost differential between methods of providing a public facility required as a result of coastal energy activity which meets minimum State environmental and construction standards, and a higher cost method that further reduces an environmental loss.

(b) The following are allowable project costs under this Subpart to the extent they are reasonable and necessary to prevent, reduce, or ameliorate unavoidable losses to valuable environmental or recreational resources in the coastal zone:

(1) Land acquisition including fee simple, leases, easements, and rights-of-way.

(2) Architectural, engineering, and other technical service fees or costs except that:

(i) Compensation must be comparable to the cost of similar work awarded through open competitive bidding;

(ii) Compensation must not be based on a cost plus a percentage-of-cost; and

(iii) Design and performance standards must conform to professionally recognized National standards.

(3) Construction expenses, including, but not limited to, construction materials, fixtures, appurtenances, and fixed machinery and equipment. However the purchase of movable construction related equipment such as dump trucks and excavating equipment will be allowable only if expressly authorized in the grant or loan agreement;

(4) Site preparation and improvement;

(5) The acquisition of movable equipment essential for the protection, reduction or amelioration of unavoidable losses to valuable coastal environmental or recreational losses.

(c) All awards and expenditures of funds under this Subpart are subject to the applicable requirements specified in Subpart I.

§ 931.75 Allotment of section 308(d)(4) environmental and recreational grants.

(a) Funds available in any fiscal year under subsection 308(d)(4) will be allotted among coastal States according to the procedures of this section and will consist of:

Funds appropriated under section 308(d)(4) for that fiscal year;

(2) Funds alloted in previous fiscal years under section 308(d)(4) reverting to the Assistant Administrator under § 931.76;

(3) Funds allotted in previous fiscal years under section 308(d)(4) and recalled under § 931.97 because such funds were expended for unauthorized uses; and

(4) Money from any other source available under section 308(d)(4).

(b) *Allotment Computation.* Available funds will be allotted first among those eligible coastal States that do not receive in that fiscal year a section 308(b) formula grant allotment. This allotment will be carried out according to the procedures for allotting credit assistance under § 931.47.

(1) If after the computation of the allotment described in paragraph (b) any State's allotment is less than 5 percent of the amount available that State's allotment will be raised to 5 percent of the amount available.

(2) If after the computation of the allotment described in paragraph (b) any State's allotment is greater than 25 percent of the total amount available then such State's allotment will be reduced to 25 percent of the amount available.

(3) If after the calculations in paragraphs (1) and (2) the amount that would be required to be allotted exceeds the amount available then each State's allotment will be reduced proportionally until the total allotment equals the amount available.

(4) If after the calculations in paragraphs (1) and (2) the amount that would be required to be allotted is less than the amount available then such unallotted funds will be available for allotment according to the procedures of § 931.47 among all eligible coastal States.

§ 931.76 Reversion of allotted funds.

(a) Allotted funds for which applications are not received by the end of the fiscal year in which such funds were allotted will revert to the Assistant Administrator at the end of such fiscal year.

(b) Allotted funds for which applications are received within the fiscal year in which such funds were allotted will remain available to the State until awarded. Funds for which timely applications are disapproved or withdrawn will remain available for reapplication by the State for 60 days after such disapproval or withdrawal. If a substitute application is not submitted for these funds before the 60-day time period expires such funds will revert to the Assistant Administrator at the end of the fiscal year or at the end of the 60-day period whichever occurs last.

(c) *FY 1978 Funds.* Funds allotted in fiscal year 1978 under section 308(d)(4) will be treated as if allotted in fiscal year 1979 and will be subject to the requirements of this section.

§ 931.77 Applications for environmental and recreational grants.

(a) Application for environmental/recreational grants under this Subpart should be submitted on NOAA Form 36-26 for construction projects and on NOAA Form 36-25 for nonconstruction projects. Applications should be submitted as soon as allotments of section 308(b) and section 308(d)(4) funds are computed.

(b) It is the intent of the Assistant Administrator to process completed applications within 45 days of receipt unless an EIS for the proposed project is required.

(c) All applications for assistance under this Subpart must contain the following:

(1) A certification by the State agency designated under § 931.25(a)(4)(ii) that the assistance has been or will be allocated within the State in accord with the intrastate allocation process described in subpart J of this part;

(2) A certification by the State agency designated under § 931.25(a)(4)(iii) that the assistance will be used in a manner that is compatible with the State's developing, or consistent with the

State's approved, coastal zone management program;

(3) A description of the unavoidable environmental or recreational loss, the coastal energy activity causing this loss, and the proposed project in sufficient detail to allow the Assistant Administrator to verify that the proposed project will prevent, reduce, or ameliorate an unaviodable loss of a valuable environmental or recreational resource. The applicant must indicate how the loss is unavoidable as defined in § 931.72.

(4) For construction projects, as defined in the Office of Management and Budget Circular A–102, the following:

(i) Environmental impact assessment data in detail sufficient to allow the Assistant Administrator to determine whether an EIS will be required under NEPA;

(ii) Copies of all necessary Federal, State, and local permit or license applications or approvals;

(iii) A map showing the project in relation to the coastal zone; and

(iv) A Preliminary Engineering Report.

(v) A showing that such applications for assistance have complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A–95 (Part I).

(5) For nonconstruction projects, a showing, if the application has not been submitted to the Project Notification and Review System established by OMB Circular No. A–95 (Part I), that a memorandum of agreement for coordinating planning under section 308 has been consummated with appropriate areawide clearinghouses in the State's coastal zone, pursuant to Part IV, Attachment A, of OMB Circular A–95.

(d) In addition to the certifications and information described in subsection (c), applications for formula grants must contain assurances that the State will repay to the United States:

(1) Any amount received under section 308(b) that the Assistant Administrator determines was expended or committed by the State for purposes not authorized under this Subpart,

(2) Any amount received under section 308(b) that is not expended or committed before the close of the fiscal year immediately following the fiscal year in which the amount was awarded to the State.

(e) Before awarding any financial assistance under this Subpart the Assistant Administrator will determine whether an EIS will be required and prepare an EIS when necessary.

§ 931.78 Limitations.

The proceeds of grants awarded under sections 308(b) and 308(d){4) may not be used:

(a) For the prevention, reduction, or amelioration of any loss of an environmental or recreational resource that is directly attributable to the sale, lease, rental, or conversion to other uses of such resource by a State agency or unit of local government when such sale, lease rental or conversion occurred after July 26, 1976;

(b) To pay for that part of the cost of a project designed to prevent, reduce, or ameliorate the loss of a valuable environmental or recreational resource which is incommensurate with the value of the loss;

(c) To pay for that part of the cost of a project designed to prevent, reduce or ameliorate the loss of an environmental resource which can be paid for with funds readily available from any other Federal program.

(d) To pay for that part of a loss:

(1) That occurs after July 26, 1976; and

(2) That could have been prevented by a reasonable exercise of a State's existing regulatory authority.

Subpart H—Lateral Seaward Boundaries

§ 931.80 General.

For the calculations of formula grant allotments under Subpart K, Outer Continental Shelf acreage and production shall be considered adjacent to a particular coastal State if such acreage and production lie on that State's side of the extended lateral seaward boundaries of that State. These extended lateral seaward boundaries of a coastal State shall be determined by delimitation lines established by the Assistant Administrator according to the procedures of this subpart. These delimitation lines are to be established solely for determining a State's adjacency to Outer Continental Shelf acreage and production for the purposes of section 308(b), and they are not intended to have application under any other law or treaty of the United States.

§ 931.81 Establishment of delimitation lines when agreements exist between States.

If a lateral seaward boundary extending to a State's seaward boundary (see the Submerged Lands Act, 43 U.S.C. 1301(b) and 1312) has been clearly defined or fixed by an inter-State compact, agreement, or judicial decision as of July 26, 1976, a delimitation line extending the lateral seaward boundary through the Outer Continental Shelf shall be based on the principles used to delimit or define the lateral seaward boundary in such compact, agreement, or decision. A copy of all such compacts, agreements, or decisions must be submitted to the Assistant Administrator before calculations of State allotments are made.

If a portion of a lateral seaward boundary has been clearly defined or fixed by an inter-State compact, agreement or judicial decision as of July 26, 1976, a delimitation line shall be based on the principles used to delimit or define the lateral seaward boundary in such compact, agreement or decision to the extent that such principles are applicable.

§ 931.82 Establishment of delimitation lines when no agreements exist between States.

If no lateral seaward boundary, or any portion thereof, has been clearly defined or fixed by inter-State compact, agreement, or judical decision, a delimitation line extending from the State's seaward boundary through the Outer Continental Shelf shall be established in the following manner:

(a) If, on or before August 4, 1977, a lateral seaward boundary to the State's seaward boundary is delimited or defined by an inter-State compact or agreement, the Assistant Administrator will establish a delimitation line through the Outer Continental Shelf based upon the same principles used to delimit or define the lateral seaward boundary in such compact or agreement. A lateral seaward boundary established by inter-State compact or agreement may be based on any principles which are mutually acceptable to the States involved. When such a boundary requires a measurement from a baseline, that baseline will be as defined in § 931.84(a). The lateral seaward boundary delimited or defined by such a compact or agreement, must be appropriately documented to the Assistant Administrator no later than August 4, 1977. Appropriate documentation shall include data sufficient to define the lateral seaward boundary and may include dimensionally stable base maps, geographical positions, azimuths, computations, and written descriptions.

(b) If a lateral seaward boundary is not defined or delimited by compact or agreement on or before August 4, 1977, delimitation lines will be established by the Assistant Administrator according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and

The Contiguous Zone. The Assistant Administrator will extend this time period up to February 4, 1978, if the Governors of the States concerned each request such an extension. The Assistant Administrator also has discretion to extend the time period for other delimitation lines which may be affected by the one for which an extension has been requested. Prior to establishing these delimitation lines, the Assistant Administrator will allow an additional 6-month period during which time the States failing to delimit or define a lateral seaward boundary may submit written arguments in support of their respective positions. After expiration of the period allowed for submission of arguments by States, the Assistant Administrator will establish the required delimitation lines according to the applicable principles of law. The procedures of this paragraph may be invoked at any time after these regulations become effective if the States concerned jointly seek a determination by the Assistant Administrator.

If the lateral seaward boundary is a matter in litigation prior to the time of delimitation by the Assistant Administrator, such delimitation may be deferred by the Assistant Administrator until a final judicial decision is rendered.

(c) If after July 26, 1976, a judical decision is rendered to clearly define or fix a lateral seaward boundary such a decision may be used by the Assistant Administrator in establishing a line of delimitation.

§ 931.83 Establishment of delimitation lines under later compacts or agreements.

If, after February 4, 1977, two or more States enter into or amend an interstate compact or agreement, in order to clearly define or fix a lateral seaward boundary, delimitation lines extending such a boundary through the Outer Continental Shelf will be based on principles used to delimit or define the lateral seaward boundry in such compact or agreement. For the purpose of calculating formula grant allotments under Subpart K, the Assistant Administrator also may accept agreements between States on the proportional sharing of formula grant funds within a specified area, without the need for agreement on a specific line. However, delimitation lines so extended or altered, and allotments so calculated, will not affect grants made previously in accord with calculations under Subpart K.

§ 931.84 Procedures for defining delimitation lines by equidistance principles.

(a) In the event that the Assistant Administrator establishes a line of delimitation based on measurement from a baseline, that baseline will be the intersection of the National Ocean Survey (NOS) low water datum of reference with the land, as described and published by the NOS on large scale nautical charts of the area, as modified by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone, as interpreted by the Ad Hoc Committee on U.S. Coastline Delimitation.

This committee, which has the responsibility to apply principles of international law and the Convention on the Territorial Sea and the Contiguous Zone in delimiting the territorial sea and the contiguous zone of the United States, will be charged with the identification of the baseline, including closing lines, on NOS charts as required to establish the baselines.

(b) If delimitation lines established by the Assistant Administrator are based on a measurement from the baseline, they shall be delineated by the NOS, which shall determine the geographic positions of these points by either graphical or analytical procedures, and document the delimitation lines for review and comment by the above Ad Hoc Committee and final approval by the Assistant Administrator.

§ 931.85 Formula grants impounded for disputed areas.

(a) That portion of a State's allotment of section 308(b) formula grants which is dependent on Outer Continental Shelf acreage and production in disputed areas, as determined by the Assistant Administrator, will be impounded in the Treasury of the United States until such time as the required delimitation lines have been established by the Assistant Administrator using the procedures outlined in § 931.82.

(b) That portion of a State's allotment of section 308(b) formula grants which is dependent on Outer Continental Shelf acreage, production and landings in areas disputed between the Federal Government and the State will be impounded in the Treasury of the United States until such time as the issue is resolved.

Subpart I—General Provisions

§ 931.90 Allowable costs.

(a) Allowable costs will be determined in accord with Federal Management Circular 74–4, Cost Principles Applicable to Grants and Contracts with State and Local Governments (34 CFR 255), the grant/loan agreement, and with the unique requirements of the Coastal Energy Impact Program. Specifically, project costs must:

(1) Be necessary and reasonable for proper and efficient administration of the program, not be a general expense required to carry out the overall responsibilities of States or units of local governments;

(2) Be authorized or not prohibited under State or local laws or regulations;

(3) Conform to any limitations or exclusions set forth in these priniciples, Federal laws, or other governing limitations as to types or amounts of cost items;

(4) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the recipient is a part;

(5) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances;

(6) Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period; and

(7) Be net of all applicable credits.

(b) The cost of activities conducted, or assets acquired, prior to approval of an assistance application are allowable costs only when specifically provided for in the grant or loan or agreement and to the extent that they meet the requirements set forth in paragraph (a) of this section, OMB Circular A–102 and FMC 74–4. For nonconstruction projects, such costs must have been incurred not more than three months prior to the grant start date. Purchase options for land and materials essential to the project or program may be an allowable project cost.

§ 931.91 Administrative procedures.

Administrative procedures for grants and credit assistance are based to the maximum extent practicable upon Office of Management and Budget Circulars A–95, "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects" (Fed. Reg. 2052, 1–13–76) and A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" (34 CFR 256).

§ 931.92 Compliance with OMB Circular A–95 requirements.

(a) Preapplications, if used, and applications for assistance for public facilities and public services and for

environmental and recreational grants for construction projects are subject to the Project Notification and Review System established by Office of Management and Budget Circular No. A–95, (Part I), as implemented by regulations promulgated by NOAA, 15 CFR 905.

(b) Applications for assistance for planning under sections 308(c)(1) and 308(b)(5)(C), for nonconstruction projects or programs for environmental/recreational purposes under sections 308(b)(5)(C) and 308(d)(4), and for assistance under section 308(c)(2) are not subject to Part I of OMB Circular No. A–95 if a memorandum of agreement for coordinating planning under section 308 has been executed between the state agency designated under § 931.25(a)(4)(i) and the appropriate areawide clearinghouses in the State's coastal zone pursuant to Part IV, Attachment A, of OMB Circular No. A–95.

§ 931.93 Other Federal requirements.

Compliance with all other Federal statutory provisions and regulations which are applicable to Federal assistance programs and recipients of such assistance is a condition of CEIP assistance.

§ 931.94 Environmental review.

Before awarding CEIP financial assistance the Assistant Administrator will consider the environmental consequence of each proposed use of CEIP funds according to the provisions of this section.

(a) For each proposed construction project the Assistant Administrator will conduct an environmental impact assessment pursuant to NEPA and the Council of Environmental Quality Guidelines (40 CFR 1500.1 et. seq.) to determine whether an EIS is required except that such an assessment will not be required for minor repair, replacement, maintenance, or improvement projects.

(b) An environmental assessment under NEPA and the CEQ Guidelines will not be required for:

(1) The payment of administrative costs.

(2) Repayment assistance for projects previously funded under the CEIP.

(3) Environmental assessments.

(4) Other nonconstruction projects except that the Assistant Administrator will monitor expenditure for nonconstruction projects to assure that the policies of NEPA are effectively implemented.

(5) Any project that is exempt from environmental review under any other Federal statute or regulation.

(c) All data and information on the environmental impacts of a proposed project will be provided by the potential recipient of assistance under this part, according to the CEIP Environmental Guidelines.

(d) The Assistant Administrator may prepare a regional or programmatic EIS on a group of similar or related projects, if appropriate.

(e) The provisions of financial assistance for construction projects is subject to compliance with the requirements of Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands) and the requirements for protecting historical and cultural properties established by the Council on Historical reservation (36 CFR 880).

§ 931.95 Records.

(a) All initial recipients of financial assistance under section 308 shall keep and preserve, and shall require each unit of local government to which it passes the assistance to keep and preserve, detailed project control records reflecting acquisitions, work progress, expenditures, and commitments, indicating in each instance their relationship to estimated costs and schedules. All recipients shall also keep and preserve such full written financial records, accurately disclosing the amount and the disposition of the assistance, together with the amounts and disposition of other funds applied to the project, program, or other undertaking, as shall adequately establish compliance with the requirements of section 308, the terms and conditions upon which such financial assistance was made, and the standards for financial management systems contained in Attachment G to Office of Management and Budget Circular A–102. Such records shall be retained until:

(1) An audit is completed and all questions arising from it are resolved; or

(2) Three years after completion of the project, program, or other undertaking and submission of the final Financial Status Report, whichever is sooner.

§ 931.96 Audit.

The Assistant Administrator, the Secretary of Commerce, and designee of the Assistant Administrator or Secretary of Commerce, and the Comptroller General of the United States shall have access for purposes of audit and examination to any records, books, documents, and papers which belong to, or are used under this part or controlled by, any recipient of the assistance or any person who entered into any transaction relating to such financial assistance and which is pertinent, for purposes of determining if such financial assistance is being or was used in accordance with section 308, the terms and conditions upon which such financial assistance was made, Office of Management and Budget Circular A–102, and Federal Management Circular 74–4.

§ 931.97 Recovery of funds.

(a) This section sets forth requirements and procedures to ensure that grant proceeds received by States may be recovered by NOAA if such proceeds have been expended or committed for the purposes and activities other than those set forth in the grant award, and if 308(b) grant proceeds have not been expended or committed by the State before the close of the fiscal year immediately following the fiscal year of project award.

(b) *Procedures for the recovery of funds.* (1) Upon receipt from NOAA of a written request for repayment which contains a finding that the proceeds of a grant received by the State have been expended or committed by the State for purposes other than those set forth in the grant award, and, in the case of 308(b) grant proceeds, if the funds have not been expended or committed before the close of the fiscal year immediately following the fiscal year in which the grant proceeds were awarded, such State shall provide a written response within 15 days to either refute or admit such findings.

(2) NOAA shall make a determination that repayment by the State will or will not be required, and shall notify the State of this determination no later than 45 days from the receipt by the State of the request for repayment described in (b)(1) of this section.

(3) If NOAA determines that repayment is required, the State shall have 30 days from the date of receipt of such determination to file a request for reconsideration with NOAA or 60 days from the date of receipt of such determination to make a repayment by check in the amount stated in such determination.

(i) If the State's request for reconsideration is denied, the State shall have 15 days from the date of such denial to make a repayment by check in the amount determined to be owed to the United States.

(ii) If, as a result of the State's request for reconsideration, NOAA modifies its determination of the amount required to be repaid by the State, such State shall have 15 days from the date of such modification to make the repayment, if any, by check.

(4) If no repayment is received within the time period established by paragraph (b)(3) of this section, NOAA shall take necessary action to recover the amount due. Methods of recovery may include, but are not limited to:

(i) The modification or termination of a grant being received by such State under section 308(b);

(ii) The modification or termination of financial assistance under sections of the Act other than section 308(b);

(iii) The withholding of future financial assistance to the State under any section of the Act; and

(iv) The modification or termination of financial assistance being received by such State under other programs administered by the Department of Commerce, or the withholding of future financial assistance to such State under these programs.

(5) Actions undertaken under paragraph (b) of this section shall not in any way prejudice any rights of NOAA to pursue such other remedies as may be legally available and appropriate under the circumstances, including the referral of the claim against the State to the Department of Justice.

(c) If a State has received a written request for repayment uder § 931.97(b)(1) NOAA may require such additional assurances as it finds necessary to protect the interests of the United States in the making of grants to the State.

§ 931.98 Other sources of Federal funding.

(a) The Assistant Administrator will, to the extent practicable, administer the provision of financial assistance under section 308:

(1) On the basis that section 308 financial assistance will be in addition to and not in lieu of any Federal funds that any coastal State or unit of local government may obtain under any other Federal law; and

(2) To avoid duplication of Federal funds that any coastal State or unit of local government may obtain under any other Federal law.

(b) When assistance from other Federal programs is insufficient to cover a project or when combinations of assistance from multiple Federal programs are appropriate and beneficial, States and units of local government may request joint funding by the CEIP and other Federal programs in accordance with OMB Circular A–111, 41 FR 32040.

(c) The term "joint funding" means the coordination of multiple Federal assistance under the authority and provisions of the Joint Funding Simplification Act of 1974 (Pub. L. 93–510) in support of and consistent with the CEIP.

§ 931.99 Coordination with State coastal zone management agency.

(a) In the event the coastal State is implementing a management program approved under section 306, all applications for financial assistance under section 308 shall be reviewed for consistency with the State's management program by the State agency administering the State's coastal management program in accordance with the requirements of section 307(d).

(b) In the event the coastal State is developing a management program pursuant to section 305 or in a manner consistent with the policies of section 303, all applications for financial assistance under section 308 shall be reviewed for compatibility with the State's developing coastal management program by the State agency developing the management program.

Subpart J—Intrastate Allocation of Financial Assistance

§ 931.110 General.

This subpart sets forth policies, requirements, and criteria required by sections 308(e)(2) and (g)(2) and related to the intrastate allocation of financial assistance provided under section 308.

§ 931.111 Objective.

The objective of these requirements is to assure, to the maximum extent practicable, that section 308 assistance allotted to coastal States is distributed among units of local government in amounts which are proportional to need and in a manner which is equitable and expeditious.

§ 931.112 Intrastate allocation.

Each coastal State must establish a process to allocate its allotted section 308 (b), (c)(1), (d) assistance among State agencies and units of local government based on need for such assistance. This process may be periodically reviewed by the Assistant Administrator to determine whether its application results in a distribution of assistance which, to the maximum extent practicable, is proportional to need. States may amend or modify their intrastate allocation process subject to approval by the Assistant Administrator. The form of the allocation process will depend on the amount of assistance allotted to the State.

(a) States that receive in a fiscal year an allotment of $1 million or more in grants under sections 308 (b), (c)(1) and (d)(4) must develop an intrastate allocation process for that fiscal year's allotment. Such process must be approved by the Assistant Administrator and must:

(1) Indicate the State agency designated under § 931.25 which will assume the lead role for administering the process;

(2) Describe the methods and procedures used to assure direct and effective participation by affected State agencies and units of local Government throughout the development and implementation of the allocation process.

(3) Describe the methods to be used to allocate financial assistance and to evaluate and select projects based on criteria which include immediacy or severity of impacts, the fiscal capacity of units of local Government, and protection of the environment;

(4) Assure that information on the allocation of financial assistance is available to the public throughout the allocation process;

(5) Stipulate reasonable time limits for the allocation of financial assistance; and

(6) Establish a timely procedure by which units of local government may appeal to the State;

(i) the results of its allocation decisions; or

(ii) whether the State complied with the intrastate allocation process described in this section and approved by the Assistant Administrator.

(b) Those States which receive an allotment of less than $1 million in 308 grants in any fiscal year must provide under sections 308 (b), (c)(1), (d)(4) an allocation process which will be submitted along with applications and requisitions for section 308 assistance. This process will not be subject to prior approval of the Assistant Administrator. The submission by the State must describe:

(1) The methods used to evaluate and select projects and to allocate financial assistance.

(2) The methods used to provide for formal notification of, direct consultation with, and comments by, affected State agencies and units of local government in the allocation of all 308 funds.

(c) Eligible U.S. Territories are exempt from the requirements to provide an intrastate allocation process.

§ 931.113 Forms of assistance.

To the maximum extent practicable and in accord with the intrastate allocation process established pursuant to § 931.112:

(a) States that receive grants under section 308 for purposes specified in Subparts D and G of this part must pass this assistance through to State agencies and units of local government in the form of grants;

(b) States that receive grants under section 308 for purposes specified in Subparts E and F of this part must pass this assistance through to State agencies and units of general purpose local government in the form of grants;

(c) States that are allotted credit assistance under section 308 (d)(1) and (d)(2) must pass this assistance through to State agencies and units of general purpose local government using one of the following methods:

(1) State agencies may borrow to provide public facilities and public services needed to meet either State or local needs;

(2) State agencies may borrow to reloan or to grant this assistance to units of general purpose local government for public facilities and public services needed to meet local needs; or

(3) State agencies and units of general purpose local government may submit applications to the State to borrow from the Fund to provide needed public facilities and public services.

§ 931.114 Appeal to Assistant Administrator.

(a) A unit of local government may appeal to the Assistant Administrator to determine whether the State complied with the approved intrastate allocation process described in § 931.112 and approved by the Assistant Administrator. Such an appeal must be made within 30 days after the unit of local government has exhausted the appeal procedure described in § 931.112. Such an appeal will be limited to the application of the State's process and the Assistant Administrator may require additional information necessary to make an objective review and finding. The Assistant Administrator will notify the State and unit of local government of NOAA's findings within 45 days of the receipt of the appeal.

(b) If the Assistant Administrator finds that the State has not substantially complied with the approved process, section 308 assistance will be withheld until the State reallocates the assistance in accord with the approved process.

Subpart K—Allotment of Section 308(b) Formula Grants

§ 931.120 General.

The purpose of this subpart is to describe the procedure for allotting among eligible coastal States moneys appropriated in any fiscal year under section 308(b).

§ 931.121 Definitions.

(a) The term "first landed" in a particular coastal State refers to oil and natural gas produced from the OCS that is first unloaded from tankers or barges within that state, or is brought to shore in pipelines that first touch non-submerged land and create a significant impact in that State.

(b) The term "adjacent" is defined in § 931.80.

§ 931.122 OCS regions.

For purposes of this subpart in the coastal States will be assigned to OCS regions as follows:

(a) Region I: Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, the Commonwealth of Puerto Rico, Virginia and the Virgin Islands.

(b) Region II: Alabama, Florida, Louisiana, Mississippi, and Texas.

(c) Region III: California, Hawaii, Oregon, and Washington.

(d) Region IV: Alaska.

§ 931.123 Impacted State.

(a) For purposes of awarding a two percent formula grant allotment the Assistant Administrator will determine that a State "is being or will be impacted by OCS energy activity" if:

(1) The Assistant Administrator finds that a State was impacted by OCS energy activity that took place in the fiscal year preceding the fiscal year for which the allotments are calculated; or

(2) In the Assistant Administrator's judgment that State will be impacted as a result of OCS energy activity that took place in the fiscal year preceding the fiscal year for which the formula grant allotments are calculated.

(b) The projection of impacts that "will" occur necessarily implies that the Assistant Administrator make anticipatory judgments that may not be supported by hard data. The Assistant Administrator will decide which States "will be impacted" within the context of the purposes for which the CEIP was established and will base the analysis of future impacts on the immediacy of impact, equity in distribution of appropriated funds, and the reasonable need for such funds.

(c) The impacts that the Assistant Administrator will consider when making two percent formula grant allotments include, but are not limited to:

(1) Any significant loss, damage, degradation of or impairment of access to any valuable coastal environmental or recreational resource or any threat of such loss, damage, degradation, or impairment;

(2) Any changes or threat of changes in the social, governmental or economic infrastructure in the coastal zone which would necessitate the provision of new or improved public facilities or public services; or

(3) Any demographic changes or threat of change in the coastal zone which would necessitate the provision of new or improved public facilities or public services or which would degrade the quality of the human environment.

§ 93.124 Eligibility.

No coastal State will receive an allotment of section 308(b) formula grants unless it meets the basic eligibility requirements of Subpart C.

§ 93.125 Allotment of section 308(b) formula grants.

(a) Funds available under section 308(b) will be allotted according to the procedures specified in this section and will consist of:

(1) Funds appropriated under section 308(b) in a fiscal year; and

(2) Funds available in a fiscal year under section 308(b) from any other sources.

(b) *State Review.* (1) Tentative allotments of formula grants will be computed and submitted to all eligible coastal States as soon as practicable after OCS acres leased, OCS oil and gas produced, and OCS oil and gas first landed data become available for the fiscal year preceding the year for which allotments are calculated. These data usually become available in November of the fiscal year for which allotments are calculated.

(2) Eligible coastal States will have 30 days to submit comments on these tentative allotments to the Assistant Administrator who will revise the allotments as appropriate.

(3) Final allotments will be calculated no more than 30 days after the end of the 30-day State review period.

(c) The allotment of section 308(b) formula grants that a State receives will be the result of the calculations in paragraphs (c)(1) through (5) of this section.

(1) *Formula Amount.* The amount allotted to an eligible coastal State in a fiscal year under the formula specified in section 308(b)(2) is the formula amount and is given by the following equation:

$$\text{Formula Amount} = \tfrac{1}{3}\frac{A}{A_T} \times TA + \tfrac{1}{3}\frac{P}{P_T} \times TA + \tfrac{1}{3}\frac{L}{L_T} \times TA$$

A=The amount of OCS acreage that is adjacent to the eligible coastal State and is newly leased by the Federal government in the fiscal year preceding the fiscal year for which the allotment is made.

A_T=The total amount of OCS acreage that is adjacent to all eligible coastal States and is newly leased by the Federal government in the preceding fiscal year.

P=The volume of oil and natural gas produced from OCS acreage adjacent to the eligible coastal State in the preceding fiscal year.

P_T=The total volume of oil and natural gas produced from OCS acreage adjacent to all eligible coastal States in the preceding fiscal year.

L=The volume of oil and natural gas produced from OCS acreage that is first landed in the State in the preceding fiscal year.

L_T=The total volume of oil and natural gas produced from the OCS that is first landed in all eligible coastal States in the preceding fiscal year.

TA=The total amount of funds available for section 308(b) purposes in the fiscal year for which the allotment is made.

(2) *Two Percent Amount.* The Assistant Administrator will allot to any eligible coastal State in a fiscal year an amount equal to 2% of the total amount available in that fiscal year under section 308(b) if:

(i) That State's formula amount is greater than zero but less than 2 percent of the total amount available in such fiscal year; or

(ii) That State's formula amount is zero; and

(A) The Assistant Administrator determines that State is being or will be impacted by OCS energy activity; and

(B) The Assistant Administrator determines that State will be able to expend or commit the proceeds of such allotment in accordance with the purposes set forth in section 308(b)(5); and

(C) Any other eligible coastal State in the same OCS region is allotted a formula amount greater than zero.

(3) *Proportional Reduction.* If after calculating the formula amount and the 2 percent amount the total amount of funds that would be required to be allotted is greater than the total funds available in a fiscal year under section 308(b), the Assistant Administrator will deduct from each coastal State whose formula amount exceeds 2 percent of the amount available an amount represented by the following expression:

$$(T - TA) \times \left[\frac{F - 2\% \text{ of } TA}{SF - (2\% \text{ of } TA \times S)}\right]$$

T=Total amount that would be required to be allotted to all coastal States before the proportional reduction.

TA=Total amount available under section 308(b).

F=Formula amount for that State.

SF=Sum of the formula amounts that exceed 2 percent of the amount available.

S=Number of States where formula amount exceed 2 percent.

(4) *Maximum Amount.* If after the calculations performed in paragraphs (c)(1) and (3) of this section any coastal State would receive an allotment that is greater than 37½ percent of the amount available, the Assistant Administrator shall reduce the allotment of that State to 37½ percent of the amount available.

(5) *Redistribution.* Any amount not allotted by virtue of application of paragraph (c)(4) of this section will be reallotted proportionally among those coastal States that at this point in the calculation receive an allotment greater than 2 percent but less than 37½ percent of the amount available. For purposes of this paragraph "reallotted proportionally" means allotment in accordance with the provisions of paragraph (c)(1) of this section except that only those States that receive an allotment greater than 2 percent and less than 37½ percent will participate in the calculations described in that paragraph.

§ 931.126 Recall of formula grants.

(a) Except as provided in Subpart C, funds allotted under this Subpart will remain available for application by the recipient coastal State until September 30, 1988. Funds not applied for by this date will be returned to the United States Treasury.

(b) Funds allotted under this Subpart and which have been awarded to a State must be expended or committed by the State by the end of the fiscal year immediately following the fiscal year in which such funds were awarded or be subject to recovery under § 931.97.

(c) If an application for which funds have been committed by a State is withdrawn either within sixty (60) days before the end of the fiscal year that follows the fiscal year in which the funds were awarded to the State, or anytime after the end of the fiscal year that follows the fiscal year in which the funds were awarded to the State, the State will have sixty (60) days to resubmit an application for these funds. If a substitute application is not submitted within this time period the funds will be subject to recovery under § 931.97. Funds recovered under this section and § 931.97 will be reallotted among eligible coastal States as soon as practicable.

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Part IV

Department of Transportation

Federal Railroad Administration

Locomotive Inspection Provisions

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Parts 229 and 230]

[Docket No. LI-6, Notice No. 1]

Locomotive Inspection; Miscellaneous Proposed Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend the rules pertaining to Railroad Locomotive Inspection. The proposed amendments would update, consolidate, and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA in an effort to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before July 23, 1979. Comments received after that date will be considered so far as possible without incurring additional expense or delay. (2) Public hearing: A public hearing will be held at 10:00 a.m. on July 10, 1079. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before July 6, 1979, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street, S.W., Washington, D.C. 20590. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 4406 of the Trans Point Building at the above address. (2) Public Hearing: A public hearing will be held in room 3201 of the Trans Point Building. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202–426–8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

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SUPPLEMENTARY INFORMATION:

Background

Regulatory Reform

On March 23, 1978, the President issued Executive Order 12044. In that Order, he directed all Executive Agencies to adopt procedures to improve existing and future regulations. As a matter of policy, the Order requires that regulations be as simple and clear as possible, achieve legislative goals effectively and efficiently, and not impose unnecessary burdens. To achieve this policy objective, the Order requires Agencies to address the following considerations, among others, when developing regulations: (1) The need for and purpose of the regulation must be clearly established; (2) An opportunity must be provided for early participation and comment by other Federal Agencies, state and local governments, businesses, organizations, and individual members of the public; (3) Meaningful alternatives must be considered and analyzed before the regulation is issued; and (4) Compliance costs, paperwork, and other burdens on the public must be minimized.

In response to the policies set forth in Executive Order 12044, FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program. This inquiry was announced in the May 8, 1978, issue of the **Federal Register** (43 FR 19696).

That notice also announced the FRA would conduct a series of two-day public hearings. The notice stated that the purpose of the hearings would be to obtain information from the public that would help FRA to determine whether many of its existing regulations should be expanded in scope, revised, or revoked.

The notice indicated that the first general area to be considered would be rolling equipment which would include locomotives, freight cars safety appliances, and power brakes. Track and related structures, appliances, and devices were included in the second general area identified in the notice. The third and final general area defined includes signal and communications systems.

The FRA has conducted five two-day hearings, completing the public hearing phase of the safety inquiry. These hearings have dealt with the following subjects: (1) Locomotives (June 14 and 15, 1978), (2) freight cars and safety appliances (July 12 and 13, 1978), (3) power brakes (September 13 and 14, 1978), (4) track and related structures, appliances, and devices (November 15 and 16, 1978), and (5) signal and communications systems February 21 and 22, 1979.

Hearing on Locomotives

Since this notice contains proposed revisions to the current requirements for Locomotive Inspection set forth in Part 230 (49 CFR Part 230), the following discussion will focus on the matters receiving most emphasis at the hearing on those standards. At that hearing, extensive testimony was presented in response to the five issues set forth in the hearing notice (43 FR 19696). This testimony and the related written comments submitted by those interested persons unable to appear at the hearing have been fully considered. The testimony and written comments have been placed in Docket No. RSSI-78-5. Interested persons may examine that docket during regular business hours in room 4406 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

Monthly Locomotive Inspection

At the hearing, the Association of American Railroads (AAR) and the individual railroads argued that the present requirement for a 30-day locomotive inspection (49 CFR 230.331) should be changed to a quarterly inspection. Several reasons for this change, which was the subject of an AAR petition for rulemaking dated April 10, 1977, were advanced.

First, the AAR and the railroads argue that the modern diesel electric locomotive is a well designed piece of equipment that does not require a specilly designated inspection at 30-day intervals. They noted that the requirement for an inspection at least once every 30 days has its origin in the regulations applicable to steam locomotives and dates back to the 1920's. The safety problems inherent in steam locomotives, which may have warranted monthly inspection, are not present in diesel locomotives.

Second, the railroads stated that the requirement for a daily inspection under 49 CFR 230.203 provides a more than adequate level of safety. Although there was some variation among the railroads that testified at the hearing about the differences between a daily inspection and a monthly inspection, the differences were said to be minor.

Third, several commenters noted that a locomotive is regularly in the shop for routine maintenance, usually at

intervals of less than 30 days. This provides additional opportunities for detecting defects. The present requirement for an inspection every 30 days is alleged to be redundant.

Several railroads estimated the savings they would realize if the 30 day inspection was changed to a quarterly inspection. The Missouri Pacific Railroad Company (Mo-Pac) estimated that $3.5 million would be saved because of increased efficiency, fuel savings, and decreased locomotive downtime. The Chesapeake and Ohio Railway Company (C&O) estimated its saving at $3 million.

On the other hand, the Railway Labor Executives Association (RLEA) was opposed to any change in the 30-day inspection requirement. According to the RLEA, the number of locomotive defects uncovered by FRA inspectors is evidence that the 30-day locomotive inspection interval should not be lengthened. The daily inspection is superficial in the opinion of the RLEA. The 30-day inspection is qualitatively different because the persons conducting the inspection have greater technical expertise and experience in locomotive maintenance and repair. The RLEA agreed, however, that a time interval longer than 30 days might be possible if the daily inspections were to be performed better.

Daily Inspections

The AAR suggested revision of the daily inspection requirement of 49 CFR 230.203. It contended that the requirement for an inspection of road locomotives every 24 hours is unnecessarily restrictive. A calendar day inspection instead would allow greater flexibility and bring the road locomotive requirement in line with the yard locomotive requirement.

Modernization of the Regulations

The commenters, both labor and management, agreed that the locomotive inspection regulations should be revised and updated. The AAR and several railroads were of the opinon that steam locomotive regulations, Subparts A and B of Part 230, could be eliminated entirely. Other commenters suggested that the steam rules be deleted from the Code of Federal Regulations since so few steam locomotives are still operating. However, these commenters thought the requirements should remain in force for those steam locomotives that remain in service.

There was also general agreement that certain requirements in Subparts C and D could be eliminated because they are out of date. Section 230.216 regarding jackshafts was one example. Updating language, such as changing the term "steam boiler" to "steam generator", was also suggested. The RLEA expressed concern that modernization of the regulations would alter language that has developed a clearly understood meaning in the railroad industry over many years.

The Relationship of Operating Environment to Locomotive Design, Maintenance, and Inspection.

One area addressed at the hearing was how safety requirements for the design, inspection, and maintenance of locomotives should differ according to the type of service and operating environment. The AAR and most railroad commenters rejected the idea that type of service and operating environment should be used as a basis for differing safety requirements. With respect to design of locomotives, the AAR stated that railroads and locomotive manufacturers should be free from regulatons that could stifle innovation. The AAR and several railroad commenters noted that the diesel-electric locomotive is an example of private sector development and initiative. One commenter pointed out that many locomotives operate in more than one type of service and in a variety of different operating environments. Hence, different design standards for different types of service would not be possible or useful. A number of commenters doubted the existence of adequate data and understanding to develop useful design standards.

The use of type of service or operating environment as factors for setting inspection and maintenance intervals was also rejected by the AAR. The difficulty of keeping a record for each locomotive detailing the type service and the operating environment was cited as one reason. Several railroad commenters noted that each railroad is in the best position to develop a maintenance plan for its own locomotives because each railroad is aware of its special operating conditions. These commenters thought Federal regulation was unnecessary since railroads already tailor their maintenance practices to operating conditions.

Another commenter, American Shortline Railroad Association, favored different regulations for different types of service. In its opinion, the distinction between low-speed yard power and high-speed freight engines merited varying treatment. The RLEA also suggested that high speed locomotives may need special standards.

Locomotive Inspection

History

Railroad locomotive inspection requirements are one of the oldest areas of Federal safety regulation. The basic statutory authority, the Locomotive Inspection Act (45 U.S.C. §§ 22–34), dates back to 1911. It was enacted because of the number and severity of boiler explosions on steam locomotives. The steam locomotive was an extremely dangerous piece of equipment and railroads often did not perform adequate inspections because of the need for motive power. Congress stepped in to attempt to promote the safety of employees and passengers.

More than half a century later, the Locomotive Inspection Act remains virtually unchanged. The requirement that a locomotive be safe to operate is still the cornerstone of Federal involvement. Section 2 of the Act provides that "* * * it shall be unlawful for any carrier to use or permit to be used on its line any locomotive unless said locomotive, its boiler, tender, and all parts and appurtenances thereof are in proper condition and safe to operate in the service to which the same are put, that the same may be employed in the active service of such carrier without unnecessary peril to life or limb, and unless said locomotive, its boiler, tender, and all parts and appurtenances thereof have been inspected from time to time in accordance with the provisions of this Act and are able to withstand such test or tests as may be prescribed in the rules and regulations hereinafter provided for."

Section 2 is broad in its sweep and makes clear that each carrier is responsible to insure that locomotives used on its line are safe. Even the extensive requirements of 49 CFR Part 230 are not intended to be exhaustive in scope, and with or without that regulatory structure the railroads remain directly responsible for finding and correcting all hazardous conditions.

The purpose of Federal regulation of locomotives is to promote the safety of employees and the public. In particular, current Part 230 implements the requirement of the Locomotive Inspection Act with respect to the inspection and testing of locomotives. And since testing necessarily involves reference to a benchmark, the regulations specify conditions that are safety defects on locomotives.

Another important aspect of the Locomotive Inspection Act is its pervasive scope. Section 2 encompasses the "locomotive * * * and all parts and appurtenances thereof." Given the

complexity of a locomotive as a piece of equipment, Federal regulation to implement the law has resulted in substantial and relatively detailed requirements.

The proposed update and revision would substantially reduce the length of the locomotive inspection regulations and would eliminate or alter numerous requirements. Under the proposed revision, however, a comprehensive safety regulatory structure would remain. The FRA believes that the locomotive inspection regulations have significant safety implications and that the scope of the language of the Locomotive Inspection Act mandates a comprehensive approach.

Apart from the elimination of archaic provisions and language, the present requirements of Subparts C and D of Part 230 were generally endorsed by commenters at the locomotive hearing. The RLEA strongly supported the existing requirements. The AAR and most railroad commenters directed their attention to only a few items such as the monthly inspection, while endorsing other requirements, such as the daily inspection. Modernizing Part 230, not eliminating it, was a consensus goal.

Accidents/Incidents

Part 225 of Title 49 CFR requires all railroads to file with the FRA monthly accident/incident reports. On the basis of these reports, the FRA publishes an accident/incident bulletin for each calendar year. Accidents/incidents reported to the FRA are classified as train accidents, train incidents, or non-train incidents.

Train accidents are collisions, derailments, fires, explosions, acts of God or other events involving operation of railroad on-track equipment (standing or moving) that result in more than a specified amount of damages to railroad on-track equipment, signals, track, track structures, and roadbed.

The dollar damage reporting threshold is adjusted biennially to reflect changes in labor and material costs. The present reporting threshold is $2,900; during 1977 and 1978, it was $2,300.

During the 21-month period January 1, 1977 to September 30, 1978, a total of 308 train accidents were reported to be caused by locomotives (annual average of 176). These resulted in 51 injuries (29.14 annual average) and $11,562,156 in property damage of the type required to be reported ($6,606,946 annual average). There was not any reported fatality during the period. These accidents consisted of 9 collisions (5.14 annual average), resulting in 3 injuries (1.71 annual average) and $76,494 in reported property damage ($43,711 annual average); 103 derailments (58.86 annual average), resulting in 31 (17.71 annual average) injuries and $6,312,071 in property damage ($3,606,898 annual average); and 196 other accidents (112 annual average), resulting in 17 injuries (9.71 annual average) and $5,173,591 ($2,956,338 annual average) in property damage.

Coupler/draft system failures caused 5 of the 9 collisions and brake system failure accounted for 2 collisions. Suspension system failures resulted in 54 of the 103 derailments attributed to locomotives and brake system failures accounted for 29 derailments. With respect to other accidents caused by locomotives, 108 of a total of 196 accidents were electrical or oil fires.

In addition to these train accidents, a total of 2,441 train and non-train incidents involving railroad employees operating locomotives were reported for this 21-month period (1394.86 annual average). They resulted in 2,321 injuries (1326.29 annual average), 146 illnesses (83.43 annual average) and 18,782 lost or restricted workdays (10,732.57 annual average). No fatalities were reported.

Incidents are events that result in a reportable injury, illness or death but do not result in sufficient property damage to be classified as an accident. Incidents that occur in connection with the movement of a locomotive are classified as train incidents; all other incidents involving locomotives are non-train incidents.

The incidents most frequently reported during this 21-month period were: Foreign object in eye (778); unexpected movement, slack action, or sudden stopping of locomotives (388); stumbles, slips and falls (200); parts of body striking against equipment (199). Cumulatively, they account for almost two-thirds of all incidents and more than one-falf of the resulting lost or restricted workdays. If exposures to fumes and gases (146) and cab seat incidents (141) are added, more than three-fourths of all reported incidents and more than two-thirds of the resulting lost or restricted workdays are accounted for.

The average number of lost or restricted workdays for *all* incidents involving railroad employees operating locomotives may be used to assess the relative severity of injuries resulting from the various types of incidents. For this 21-month period, this average is slightly less than 7½ days. The types of incidents that result in significantly higher than average lost or restricted workdays were: defective cab seats (8.7 days); unexpected movement, slack action, or sudden stopping of locomotives (12.7 days); stumbles, slips and falls (11.5 days); checking, oiling or servicing locomotives (11.1 days); and burns or electrical shocks (10.0 days).

Types of incidents that were both frequently reported and resulted in significantly higher than average lost or restricted workdays were:

(1) Unexpected movement, slack action, or sudden stopping of locomotives—388 incidents with an average of 12.7 lost or restricted workdays;

(2) Stumbles, slips and falls—200 incidents with an average of 11.5 lost or restricted workdays;

(3) Cab seat incidents—141 incidents with an average of 8.7 lost or restricted workdays.

These three types of incidents, which constitute almost 30% of reported incidents during this 21-month period, accounted for more than 46% of the lost or restricted workdays. In contrast the most frequently reported incident—foreign object in eye—constituted almost 32% of the reported accidents but resulted in less than 8% of the lost or restricted workdays.

A more detailed breakdown of these incidents together with resulting casualties and lost or restricted workdays appear in Table 1.

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TABLE 1

SUMMARY OF TRAIN AND NON-TRAIN INCIDENTS INVOLVING EMPLOYEES OPERATING LOCOMOTIVES

January 1, 1977 - September 30, 1978 (21 Months)

Description of Incident	Number of Incidents	Number of Employee			Total Lost or Restricted Work Days	Average Number of Lost or Restricted Work Days per Incident
		Fatalities	Injuries	Illnesses		
Burn or Electrical Shock (101,101T)	33	-	33	-	331	10.0
Striking Parts of Body Against Equipment while Moving about Locomotive (102,102T)	19[a]	-	201	-	1874	9.4
Struck By Tools or Other Falling Objects (103,103T)	57	-	57	-	333	5.8
Stumbles, Slips, Falls, Stepping on Foreign Object or Irregular Object (104,104T)	200	-	201	-	2294	11.5
Checking, Oiling or Servicing Locomotive (105,105T)	126	-	125	1	1400	11.1
Unexpected Movement, Slack Action, and Sudden Stops of Locomotive (106T, 107T, 108T)	388	-	400	-	4915	12.7
Exposure to Fumes and Gases (109, 109T)	146	-	26	122	842	5.8
Defective Cab Seats or Adjusting of Cab Seats (110, 110T, 111, 111T)	141	-	139	2	1220	8.7
Foreign Object in Eye (112, 112T)	778	-	776	4	1396	1.8
Other Accident/Incidents while Operating Locomotive (119, 119T)	374	-	363	17	3553	9.5
TOTAL	2442		2321	146	18158	7.4

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Three yardsticks that may be used to assess locomotive safety are:

(1) The locomotive-caused accident rate per locomotive per year;

(2) The number of train miles per locomotive-caused accident; and

(3) The number of train miles per locomotive incident.

According to FRA records, a total of approximately 32,000 locomotives of all types were in service in 1977 and there were 163 locomotive-caused accidents reported for that year. Accordingly, the accident rate per locomotive during 1977 is .005. Stated differently, the average locomotive would cause an accident every 196 years.

Using the second yardstick, locomotives caused 163 accidents in 1977 and the total number of train miles for that year was approximately 750 million. On the basis of these figures, a locomotive would cause a train accident every 4.6 million train miles.

Using the third yardstick, in 1977, there were 1408 reported incidents involving railroad employees operating locomotives and the total number of train miles for that year was approximately 750 million. On the basis of these figures, the average locomotive would be involved in an incident every 532,700 train miles.

After reviewing the locomotive accident/incident record and taking into consideration the technological advances in the design and construction of locomotives that have occurred since the locomotive inspection rules were last revised, the FRA believes that many of the present requirements should be changed or eliminated. This is especially true with respect to the prescribed inspection intervals now in effect.

Objectives of Revision

Update Language and Reorganize

The proposed revision of Part 230 has several objectives designed to improve railroad safety. The first objective is to update the language of the locomotive inspection requirements and reduce the length of the existing regulations through reorganization. This would be accomplished in several ways. Subparts A and B (§ 230.1 through § 230.162), which deal with steam powered locomotives, would be removed from the Code of Federal Regulations. Although not published in the CFR, the current requirements would remain applicable to the few remaining steam locomotives. The table of contents for the subparts and an amended § 230.0 would continue to be published in the CFR. As amended, § 230.0 would provide that no common carrier by railroad may operate a steam locomotive unless that locomotive meets the requirements in effect on October 1, 1978.

Subparts C and D of current Part 230 would be merged into a new Part 229. These subparts deal with locomotives that are not powered by steam. Although Subpart D addresses a special class of locomotives, multiple operated electric locomotives (MU), a significant amount of the language is duplicative of Subpart C. Under the proposed revision, the requirements of Part 229 would apply to all locomotives unless otherwise specified, including MU and cab control locomotives. Archaic language would also be revised. For example, "steam boiler" would become "steam generator."

The result of the proposed revision would be a reduction of over 80 percent in the total number of pages in the CFR and a reduction of over 70 percent in length of what are now Subparts C and D. This reduction should make the regulations easier to learn and apply. Additionally, proposed Part 229 is organized in a more logical format than the current regulations. The new format should facilitate ease of understanding the requirements.

Consolidate Similar Provisions

The second objective is to consolidate or modify provisions that can be covered in a summary approach. The current regulations have numerous sections or parts of sections that address the guarding of components that can cause personal injury, e.g., gears and pinions, fan openings, exposed moving part of the internal combustion engine, high-tension equipment. These would be consolidated in a single section.

There are also a number of sections in the current regulations that have essentially identical requirements relating to different components, e.g., that a component not be cracked or broken. These sections would also be consolidated under the proposed revision.

Apart from repetitiveness, certain sections in the regulations address components that are almost unknown in the modern railroad environment. The FRA believes that a general requirement that all systems and components on locomotives shall be free of unsafe conditions would be sufficient to handle the infrequent and isolated problems stemming from archaic components. A general condition requirement, which tracks the concept of "safe to operate" in section 2 of the Locomotive Inspection Act, would also reduce the need to have exhaustive and detailed regulations to cover the potential safety hazards, however slight, of each component on a modern locomotive. This requirement would also maximize the opportunity for innovation consistent with safety.

Eliminate Nonessential Requirements

The third objective of the proposed revision is to eliminate or modify requirements that are no longer necessary for reasons of safety. The orifice test would be eliminated because the FRA believes that improvements in air compressors and the questionable value of the orifice test in identifying defective compressors warrant its elimination.

Second, the insulation dielectric test, commonly called the "high pot test", would be eliminated. This test may adversely affect the insulation. More important, the high voltages involved in the test can endanger life if the test is not properly made. Several fatalities have occurred in recent years when persons making the test have come in contact with high voltage.

Third, the interval for the main reservoir test would be extended from the current 18 months to 24 months.

Fourth, the interval for cleaning or replacing the filtering devices in the main reservoir supply line to the air brake system would be extended from the current 6 month interval to a 12 month interval.

Fifth, the wheel flange thickness requirement would be modified to permit an additional $\frac{1}{16}$ inch wear. This would bring the locomotive wheel flange thickness requirement in line with that proposed recently for railroad freight cars (44 FR 1419).

Sixth, the fuel gauge requirement of § 230.256(b) would be deleted because of its minimal impact on safety.

Seventh, a number of the requirements relating to steam boilers would be eliminated because they are not applicable to the modern steam generator, e.g., the numerous provisions relating to various types of staybolts. Also, the boiler washing requirements of § 230.320 would be deleted since a steam generator will merely shut down if it does not receive regular washings.

Eighth, the requirement that road locomotives and MU locomotives be inspected every 24 hours would be modified to allow calendar day inspections. This would increase the railroad's flexibility in using locomotives while continuing the requirement for an inspection each day.

Ninth, the requirement for a 30-day inspection would be modified to require

a periodic inspection at least once every 92 days.

Tenth, the amount of required paperwork would be substantially reduced. FRA Form 1–B (quarterly boiler inspection), FRA Form 4–B (boiler specification), FRA Form 19–B (boiler alteration), the boiler washout record, and the air card have all been eliminated. Much of the information that is now contained in these reports would be eliminated. Some of the information would be maintained only in the carriers' records. Some of the material would be consolidated on revised FRA Form F 6180.49. A single revised form, FRA Form F 6180.49A, would be required for each locomotive and would cover a 1-year period. It would be filed with the FRA once a year. On an annual basis, this consolidation would reduce the total number of forms filed by carriers with the FRA by approximately 40,000. It would also extend the reporting period to require an annual filing rather than a semi-annual filing.

The elimination or modification of these requirements should have significant beneficial effect. The extension of the 30-day inspection period to 92 days is particularly important. The AAR estimated that the capital cost of purchasing additional locomotives to make up for the extra downtime due to a 30-day rather than a 92-day inspection period would be several hundred million dollars. Two railroads estimated their individual annual savings to be several million dollars. The FRA believes that significant savings are possible and that the extended inspection interval is warranted. The modern electric and diesel-electric locomotive is capable of running for 92 days without a major inspection. The cost saving and increased flexibility can have a positive effect on safety by providing additional resources to insure that both the daily inspection and the periodic inspection are done in a more thorough manner. The reallocation of resources to correcting locomotive defects should reduce the number of defects from the current level found by FRA inspectors. Additionally, the reduction in the number of forms and other requirements would minimize the burden of the locomotive inspection regulations and help focus attention on correcting locomotive defects.

Propose New Safety Requirements

The fourth objective of the proposed revision of Part 230 is to add new safety requirements and update existing requirements that are necessary to insure that locomotives are safe to operate. Much of the "updating" would be clarification of the existing requirements in explicit language.

Under the proposal, traction motor gear cases would be specifically mentioned in the general provision relating to cracks in components that affect the structural integrity of those components. A traction motor gear case can cause a derailment if it falls to the track structure. The proposal also includes an updated provision on maximum brake cylinder piston travel. It would provide that the maximum travel may not exceed two inches less than the possible piston travel. The consequence of this revision is that all types of brake cylinders would be covered, whereas the current requirement has an incomplete list of brake cylinder types.

The current provision regarding the control of locomotives, § 230.201(c), would be rewritten for clarity. It would specify that when locomotives are coupled in multiple control, the auxiliary brake systems in use shall respond to control from the cab of the controlling locomotive.

Specific standards for locomotive headlights and horns are proposed. The existing regulations do not contain a sound level standard for the locomotive horn. The headlight standards are antiquated and unscientific. The proposed standards are not intended to create new burdens. The FRA believes that the existing locomotive fleet meets these standards.

Several totally new provisions are proposed. First, all locomotives with powered axles would be required to be built with wheel slip/slide indicators beginning in 1980.

Second, speed indicators would be required on locomotives that operate singly or as a lead locomotive at speeds in excess of 20 miles per hour.

Third, locomotives operated singly or as a lead locomotive would be required to have an end plate, a pilot, or a snowplow. Most locomotives are already so equipped. However, some locomotives that were previously equipped with foot boards do not now have protection against derailment caused by objects on the track.

Fourth, the revision includes proposed cab sound level exposure standards. The standards are the same as the current workpiace noise exposure levels prescribed by the Occupational Safety and Health Administration (OSHA). The FRA believes that the existing locomotive fleet will meet these standards without modification so long as the locomotives are properly maintained.

Fifth, new requirements are proposed to help seal the cab of a locomotive in order to prevent entry of flammable liquids into the cab in the event of an accident.

Sixth, a new provision would prohibit a variation of more than ¾ inch in diameter between wheel sets on three-powered-axle trucks or more than 1¼ inch in diameter between wheel sets on different trucks. The wheel set diameter is the average diameter of the two wheels on an axle.

Seventh, the gauge of wheel sets with wide flange wheels would be specified. A different gauge is necessary for wide flange wheels since their thicker flange can result in interference with the rail.

Eighth, the visual return water-flow indicator of the steam generator would have to be removed and inspected at every fourth periodic inspection. The glass in the indicator is subject to wear than can lead to a break.

Ninth, a new section is proposed to provide an acceptable and permissible method for the movement of locomotives for repair that are not in compliance with the regulations. This provision would encompass the movement of locomotives that do not have required slip/slide protection as a result of an internal combustion engine problem.

Costs of Revision

The FRA has estimated that the annual cost savings of the proposed revision, exclusive of the cost increases, as follows:

Non-MU locomotive inspections	$26,900,000
MU inspections	14,400,000
Fuel oil	4,200,000
Locomotive availability	7,800,000
Orifice test	960,000
Filters (air)	480,000
Records (40,000)	1,150,000
Wheels	1,656,000
High pot test	480,000
Total	58,026,000

These figures are based on the following determinations:

1. Man-hour (including fringe benefits)=$15.00.

2. A 30-day inspection (non-MU locomotives)=8 man-hours per locomotive.

3. A 30-day inspection (MU locomotives)=30 man-hours per locomotive.

4. Fuel oil costs=37.5 cents per gallon.

5. Combining 8 wheel and 12 wheel locomotives, on average a locomotive has 9 wheels; the additional permissible wear of the wheel flange would increase wheel life by 5 percent (3,600 wheels per year); the wheel changeout labor=4 man-hours; a wheel costs $400.00.

The saving for the 30-day locomotive inspections of non-MU locomotives is calculated by multiplying the number of inspections that would be eliminated (8), times the number of locomotives (28,000), times the estimated cost of each inspection (8 hours×$15 per hour). The saving for the 30-day inspections of the 4,000 MU locomotives is identically calculated except that the number of hours per inspection is higher.

The fuel oil saving is calculated by multiplying the number of gallons used at each 30-day inspection (50 gallons), times the number of inspections eliminated (8 inspections×28,000 locomotives), times the cost per gallon of fuel oil (37.5 cents).

The savings from increased locomotive availability are based on the estimate that the reduction in locomotive downtime for inspections would enable 99 locomotives under the proposed revision to do the same work that it takes 100 locomotives to do today. Thus, there could be a 1 percent reduction in the fleet (or additional traffic could be moved). The maintenance savings for 1 percent of the non-MU locomotive fleet (280 locomotives) is estimated at $7.8 million.

The savings for the orifice test, high pot test, main reservoir filter, or dirt collector and record keeping were similarly calculated. The man-hours involved were estimated for each of the items and multiplied by the number of tests or procedures that would be eliminated.

Finally, in addition to the cost savings already addressed, the FRA estimates that a one time capital cost saving of about $200 million will be realized. This is based on an estimated increased utilization of the locomotive fleet of 1 percent that would result from the extension of the 30-day inspection interval to 92 days. This increased utilization of 1 percent is equivalent to increasing the national locomotive fleet by 1 percent. Stated differently, it is equivalent to purchasing 320 new locomotives at $600,000 each.

In order to determine the net cost savings of the proposed revision it is necessary to deduct the additional costs involved. The FRA has not determined a precise net cost saving because some of the areas of increased cost cannot be determined without additional factual information. However, the areas of possible increased costs can be identified and discussed generally. The FRA requests comments on the increased costs that may be involved.

The proposed revision includes a requirement that beginning January 1, 1980, all new locomotives capable of being used in road service shall be designed with a wheel slip/slide device for each powered axle that produces an audible or visual alarm in the cab. The FRA believes the added cost from this requirement would be minimal because new locomotives are currently being equipped with wheel slip/slide devices.

A speed indicator would be required under the proposal on locomotives used as a controlling locomotive at speeds in excess of 20 miles per hour. FRA believes that the costs of this provision will be relatively small. Survey information developed as early as 1972 indicated that substantially all road locomotives were so equipped. FRA is not aware of any road locomotive delivered since that time that has not been so equipped. Estimated annual maintenance costs range from $150 to $300 per locomotive. However, the greater portion of this maintenance is already undertaken by most railroads.

FRA also believes that the costs associated with the proposed requirement that each lead locomotive be equipped with an end plate, a pilot, or a snowplow will be relatively small. The added protection from a possible costly derailment caused by an object on the track will offset part of those costs. Most locomotives will already meet this proposed requirement.

The proposed requirements for headlight intensity, horn sound level, and cab noise level exposure are also requirements that FRA believes will be met by most of the existing locomotive fleet. FRA noise investigations have noted that in some cases the air horn location and the air brake exhaust can result in high noise levels in the cab. The proposed cab sound level exposure requirements might necessitate relocation of the horn or muffling of the air brake exhaust on a few locomotives.

Another potential source of additional cost is the proposed requirement that the forward facing openings in the front portion of locomotive be sealed or arranged so that they do not provide an entry way for flammable liquids in the event of an accident. As with many of the other proposed new requirements, FRA believes that most of the existing locomotive fleet will meet this requirement.

When the increased costs are subtracted from the costs savings, the FRA estimates that the annual net cost saving would still be substantial, approximately $50 million.

Speed Recorders

On February 8, 1974, the FRA published an advance notice of proposed rulemaking concerning the development of regulations to require that locomotives be equipped with devices to (1) indicate train speed to the crew, (2) provide a continuous record of train speed, and (3) alert the locomotive crew that the powered wheels of any locomotive in the consist are slipping or sliding. 39 FR 4929 (FRA Docket No. LI–4). The matter of slip/slide indicators was the subject of a subsequent notice of proposed rulemaking. 49 FR 2994.

The proposed revision directly addresses the speed indicator and wheel slip/slide issues. They are discussed elsewhere in this notice, under the section by section analysis of the pertinent sections. The FRA believes that the other issue from the 1974 ANPRM, speed recorders, should also be finally resolved.

Locomotive speed recorder perform a number of useful functions related to operational safety. Output from a recorder can assist in the reconstruction of an accident and the determination of its cause. Locomotive events recorders, which record events such as brake applications and throttle adjustments in addition to speed, can be particularly helpful in this regard. Speed recorders can assist railroad management in policing compliance with carrier operating rules and established maximum speeds. They can also be used to gather information on equipment utilization. At the time of the 1972 survey conducted by the Association of American Railroads in cooperation with the FRA and the Transportation Systems Center, roughly half of the fleet of line locomotives was equipped with speed recorders that were being used on a regular or "casual" basis. Another one-quarter of line locomotives were equipped with devices that were not being utilized. More than 5,000 units equipped with speed indicators did not have recording capability. FRA inspections of equipped locomotive units have corroborated the view of commenters responding to the advance notice that many recording devices are not in operable condition.

The FRA does not believe that the "state of the art" for locomotive speed recorders has yet progressed to a point at which it is practical to mandate their universal application. More significantly, FRA does not believe that the safety benefits of speed recorders are sufficiently immediate and direct to warrant the expenditures which would be required to equip remaining non-equipped locomotives, repair inoperative units, and conduct periodic maintenance. A conservative estimate of initial costs to complete installation of recorders on the existing road

locomotive fleet, including replacement of some existing units, is $7,000,000. Annual maintenance costs and costs associated with the interpretation and storage of data would also be substantial.

Some of the safety benefits which flow from the use of speed recorders can be achieved by other, less costly means. For instance, computations of time between two points can often disclose speed violations. Rotation of motive power on assignments can facilitate the selective use of speed or data recorders to evaluate crew performance. Finally, although speed recorders are helpful in accident investigations, they seldom provide the sole indicium of speed available to the investigator.

Therefore, FRA proposes to terminate the proposals contained in Docket No. LI–4 relating to speed recorders.

Discussion of Proposal

The following is a discussion of the substantive proposed revisions to the current safety standards applicable to locomotives. Since these revisions are extensive in nature, they are discussed below under separate headings.

Subparts A and B of Part 230

§ 230.0 *Steam powered locomotives.* Current § 230.0 provides a definition of a locomotive. This definition would be deleted under the proposal and a revised definition included in proposed § 229.5. In place of the current definition, an amended § 230.0 would provide that no railroad may use on its line a steam powered locomotive unless that locomotive meets the requirements of 49 CFR Part 230, Subpart A (§§ 230.1–230.55) and Subpart B (§§ 230.101–230.162) as in effect on October 1, 1978.

It would also provide that any interested person may consult the October 1, 1978 revision of 49 CFR Parts 200–999 or obtain a copy of the regulations by contacting the FRA. This provision would be necessary since the FRA proposes to remove the entire text of Subparts A and B from the Code of Federal Regulations. The current regulations for steam locomotives would remain in effect even though they would not be reprinted in the CFR.

The FRA is proposing to remove Subparts A and B from the CFR for several reasons. First, the FRA estimates that less than 90 steam locomotives are currently subject to the subparts. Hence, the lengthy and detailed requirements have only a very limited applicability. Moreover, these few locomotives are usually used only in the summertime and occasionally on weekends throughout the rest of the year. Second, the technology of the steam locomotive is essentially static. The FRA is not aware of any steam locomotive that was built after the mid 1940's. The remaining steam locomotives are generally used for special excursion trips of historical interest and not in the regular service of a railroad. Third, the FRA does not anticipate making any changes in the regulations applicable to steam locomotives. These reasons have led the FRA to conclude that the annual reprinting of almost 30 pages of steam locomotive regulations in the CFR is no longer warranted.

Subparts C and D of Part 230

General. Under the proposed revision, Subparts C and D of Part 230 would be combined into a new Part 229. The discussion of the proposed changes to the current rules will be made within the context of the structure of proposed Part 229.

Certain proposed changes to the current rules embodied in proposed part 229 are not identified or discussed individually. First, archaic language has been revised without comment where the substantive requirements would not be changed, e.g., enginemen would be changed to engine crew. Second, some provisions have been reworded for clarity. Again, these are identified only if the provision would be substantively changed. Third, where interpretations published in the Code of Federal Regulations have been incorporated into the text of the rule, no specific comment has been provided. Fourth, under the proposal, time intervals would be measured by "periodic inspections" rather than by months. The periodic inspection interval is a maximum of 92 days, or approximately three months. Where the time interval between tests remains essentially the same as the current interval except that it is measured by periodic inspections rather than by months, the change is not specifically identified. Fifth, minor changes such as the assignment of new form numbers are not identified. Finally, the comparison between the proposed rule and the current rule uses the Subpart C rule; the parallel section in Subpart D of Part 230 is not identified unless it differs substantially from the requirements of Subpart C.

Certain other proposed changes to the current requirements are discussed prior to the section by section analysis of proposed Part 229. This has been done because there are no counterpart provisions for these requirements in proposed Part 229. These changes are as follows:

First, the requirement of § 230.213(a) and (b) to stamp certain information on driving and truck axles would be deleted. This information is primarily of interest to the railroad for purposes of their maintenance program. Stamping axles is a current requirement of the AAR, and the FRA believes that stamping would continue if the requirements of § 230.213 were eliminated.

Second, the requirement that a locomotive be provided with "classification and marker lights as may be required by the rules of the railroad operating the locomotive" would be deleted. The FRA believes that these lights relate to carrier operation rather than to locomotive safety. The issue of safe accessibility to these lights will be addressed in the upcoming revision of the safety appliance regulations.

Third, the FRA proposes to delete current § 230.236, that prescribes requirements for the location of headlights, sand boxes, bells, and whistles. The existing locomotive fleet meets the requirements prescribed in the section and there is every reason to believe that new locomotives will be designed that safely locate these items without Federal regulation.

Fourth, the FRA proposes to delete the existing requirement in § 230.253 for an insulation dielectric test. The dielectric test requires the use of high voltages that are inherently dangerous. If improperly made, the test can be life endangering. Several persons have died from accidental contact with high voltage while attempting the test.

Fifth, the requirement in § 230.260 for a starting device on internal combustion engines of more than 5 horsepower would be deleted under the proposed revision. FRA is not aware of any specific instances where deletion of the rule would have any adverse impact on safety.

Sixth, § 230.334, which provides extensions of time for performing required tests and inspections, would be deleted. Out of service credit and extensions are covered by § 229.23.

Seventh, the section on modification of rules, § 230.336, would be deleted because the procedure for petitions for waivers of safety rules is set forth in Subpart C of 49 CFR Part 211.

Eighth, the safety appliance requirements applicable to MU locomotives, § 230.456, are not included in proposed Part 229. These requirements will be addressed in an upcoming revision of the safety appliance regulations and will remain in effect without change until then.

Subpart A—General

§ *229.1 Scope.* This section sets forth the scope of the part. The part includes all locomotives propelled by other than steam power. This section reflects the merger of current Subparts C and D into Part 229. The merger is proposed because most of the rules in these subparts are identical in substance and intent. Whenever the merger of the subparts would change an existing substantive requirement, it will be noted.

§ *229.3 Applicability.* This section sets forth the applicability of the part. The part would apply to any common carrier by railroad subject to the Interstate Commerce Act, as defined by the Locomotive Inspection Act.

§ *229.5 Definitions.* This section defines terms that are necessary to understand the part. The definition of locomotive in current § 230.201(a) would be amended by broadening it to encompass MU locomotives and cab control locomotives. This is made necessary by the proposed merger of current subparts C and D. The word "unit" would not continue to be used to signify a single locomotive, either in the definition or elsewhere in the proposal. The term "locomotive" would be singular only. Where more than one locomotive is involved, the proposal uses the language, "two or more locomotives", or the word, "consist". The terms "MU locomotive" and "cab control locomotive" would be separately defined because some proposed requirement apply only to these locomotives.

§ *229.7 Prohibited acts.* Paragraph (a) restates the general requirements of the Locomotive Inspection Law regarding the condition, safety, inspection, and testing of locomotives. Paragraph (b) provides for a penalty of not less than $250 and not more than $2,500 for each violation of the Locomotive Inspection Act or of Part 229.

§ *229.9 Movement for repair.* This provision has no counterpart in the current regulations. It is proposed in order to clarify the proper method of moving locomotives for repair. Paragraph (a) provides that a locomotive that does not comply with Part 229 may not be moved from a point where repairs necessary to bring it into compliance can be made. Thus, a non-complying locomotive must be repaired if it is at a location where repairs can be made. Whether the particular location is one where the locomotive can be repaired is determined by the facts. The FRA recognizes that some repairs cannot be made except at a major repair facility, e.g., traction motor replacement. Many repairs, however, can be made outside of a repair facility if parts and repair personnel can be reasonably sent to the point where the non-complying locomotive is located.

Paragraph (b) provides that a non-complying locomotive may be moved only to the nearest point or the nearest forward point where repairs necessary to bring it into compliance can be made. This movement is subject to two requirements. First, the carrier must verify that the locomotive is safe to move and prescribe any restrictions necessary to assure the safety of the movement. This restriction is to clarify that the movement permitted by the section for a locomotive that does not otherwise comply with the requirements of Part 229, does not relieve the carrier of its obligation under the Locomotive Inspection Act to insure that the locomotive is safe to operate in the service to which it is put. Second, the carrier must display "Bad Order" tags or other written notice in the cabs of the controlling locomotive and the non-complying locomotive that contain information on the nature of the defects, movement restrictions, destination, and other pertinent facts. This requirement is designed to assure that the movement is made for the limited purpose of repair and that the engine crew has notice of the non-complying locomotive and prescribed restrictions.

Paragraph (c) provides that locomotive remains a locomotive even if its propelling motors are inoperative, or its jumper cables are down, or both. In simple terms, it means that a locomotive is always a locomotive for purposes of the part. Since the current regulations do not provide any method for moving non-complying locomotives to a point where repairs can be made, the FRA (and the ICC before it) had decided as a discretionary enforcement policy that it would not treat a locomotive with its jumper cables down as locomotive under Part 230.

The FRA has concluded that a systemized procedure for the movement of non-complying locomotives would increase safety and provide other benefits. Under the current approach, a locomotive with its "jumpers down" has not been subject to any safety requirements except safety appliance requirements. This means a locomotive with, for example, a serious defect to its running gear may be hauled dead in a train without any restriction whatsoever. It may even be hauled from a point or beyond a point where the running gear could be repaired. Moreover, movement of a locomotive with the jumper cables down deprives the locomotive of all wheel slip/slide protection. The proposed rule would insure that the number of movements of non-complying locomotives is minimized by forbidding any movement from a point where repairs can be made; providing that a movement may be made only after a specific determination that the locomotive is safe to move; and requiring that the locomotive be tagged to insure that the persons who are involved in moving the locomotive are aware of the condition.

The proposed section should also benefit the carriers. One consequence of the "jumpers down" policy of moving non-complying locomotives is that the locomotive cannot be used to supply power. This inability to use the locomotive to provide power is the implicit penalty of the current approach. The penalty acts to discourage casual movement of non-complying locomotives. However, this hidden penalty reduces operating efficiency in those instances where the non-complying locomotives could safely provide power. Moreover, the jumpers down requirement also reduces safety because it precludes wheel slip/slide protection.

Another consequence of the "jumpers down" policy is confusion surrounding the interrelationship between tagging an internal combustion engine that has been shut down for repairs (current § 230.262(a); proposed § 229.101), wheel slip/slide requirements for road locomotives (current § 230.201(d); proposed § 229.115), and movement of non-complying locomotives (current "jumpers down" policy; proposed § 229.9). Under the proposed rule, any movement of a non-complying locomotive must be made in accordance with the movement for repair section. The absence of wheel slip/slide protection on a locomotive in road service is a non-complying condition. Therefore, whenever an engine shut down negates wheel slip/slide protection on a locomotive in road service, the locomotive may only be moved to the nearest point or nearest forward point where repairs necessary to restore wheel slip/slide protection can be made. To make this point totally clear, proposed § 229.101 states this explicitly. In fact, the current rules demand the same conclusion. Nothing in the current rule on tagging an internal combustion engines suggests that tagging relieves the carrier of the obligation to have the locomotive meet the wheel slip/slide requirements of § 230.201(d). The tagging mechanism

only allows the locomotive to continue in service with an internal combustion engine that would not otherwise be in "proper condition" under the Locomotive Inspection Act.

Though the FRA believes this to be the proper conclusion, it must be admitted that the FRA has shared in creating confusion on this issue. Since removing the jumpers eliminates slip/slide protection, the "cure" for an engine shut down that negates slip/slide protection seems as bad as the disease. In fact, on locomotives with more than one internal combustion engine, removing the jumpers could then increase the number of axles that lack slip/slide protection. This logical inconsistency created by the "jumpers down" policy is reflected in the ANPRM (39 FR 4929) and the NPRM (42 FR 2994) dealing with the relationship between slip/slide and tagging, which treat the relationship as a special situation that is not encompassed under current Part 230. The rule proposed in the 1977 NPRM provided that a locomotive with an engine shut down that negated wheel slip/slide protection "may not be moved beyond a facility where the necessary repairs may be made".

The apparent critical nature of wheel slip/slide protection that resulted in the 1977 NPRM (42 FR 2994) cannot be squared with a "jumpers down" policy that allows the unrestricted movement of locomotives with every other kind of non-complying condition without slip/slide protection. The proposed rule in this notice would eliminate the inconsistency. Under the proposal, the necessity for a method to safely and lawfully move non-complying locomotives, the need for wheel slip/slide protection, and the usefulness of engine tagging are dealt with on their individual merits and their interrelatonship made clear.

§ *229.11 Locomotive identification.* This provision is identical to current § 230.201(b), except that Form 4–A, locomotive specification card, would be deleted. The requirement to file the form was deleted in May 1971.

§ *229.13 Control of locomotives.* Current § 230.201(c) would be rewritten for clarity. Proposed § 229.13 would include a specific requirement that any auxiliary brake system in use, including dynamic and regenerative brake systems, shall respond to control from the cab of the controlling locomotive. This requirement is a clarification of the current language that all parts and components of each locomotive "capabe of supplying the retarding effect * * * to control the speed of the train * * * shall respond to control" from the cab of the controlling locomotive. The words "in use" are included because the use of an auxiliary brake system is optional.

§ *229.15 Final report.* Current § 230.333 would be revised for clarity.

§ *229.17 Accident reports.* This provision is essentially identical to current § 230.335. Proposed § 229.17 would require that the telephone report of the accident include the name, title, and phone number of the person making the call.

Subpart B—Inspection and Tests

§ *229.21 Daily inspection.* The daily inspection requirements of current § 230.203 would be amended in three ways. First, the requirement that MU locomotives and road locomotives be inspected every 24 hours would be changed to a requirement that they be inspected at least once each calendar day. Yard locomotives are currently on a calendar day system. This change would substantially increase carrier flexibility in scheduling daily inspections to improve utilization of motive power. The FRA believes that the experience of calendar day inspections for yard locomotives has demonstrated the viability of a calendar day inspection system.

Second, the current requirement for an approved form has been deleted. A carrier may adopt any type of written report so long as it includes the information required by the section. This would allow a carrier to adapt the written report to its own automated reporting and retrieval system.

Third, paragraphs (c), (d), (e), and (f) of the current section have been deleted as unnecessary or non-regulatory in character. Paragraph (c) of the current rule is essentially not regulatory since it does not prescribe any standards for competency and since the railroad has total control of the designation. Paragraph (d) would be unnecessary under the proposal since approval of the inspection report would not be required. Similarly, the requirements relating to FRA Form No. 2–A in paragraph (f) would not be necessary since under the proposal FRA Form 2–A would be eliminated.

§ *229.23 Periodic inspection.* Current § 230.331, "Monthly locomotive unit inspection and report", would be substantially revised. This revision is necessary because of the proposed change of the inspection interval. The current 30-day inspection would be altered to require a periodic inspection at intervals that do not exceed 92 days. The periodic inspection would include both the locomotive and the steam generator and would have to be done at a location where a person may safely inspect the entire undercarriage of the locomotive.

Paragraph (b) of the proposed section would provide that the inspection may be postponed if the locomotive is out of service on the day a periodic inspection is due. However, the locomotive would have to receive a periodic inspection before being returned to service.

Paragraph (c) of the proposal would provide a mechanism for a locomotive to continue in service even if the steam generator is out of service. It would require that the water suction pipe to the water pump and the leads to main switch (steam generator switch) be disconnected and that the train line shut-off-valve be wired closed or a blind gasket applied. These procedures are designed to insure that a defective steam generator will not be inadvertently started and are in addition to the tagging requirement of § 229.113. The steam generator would have to be inspected before it is returned to service.

Paragraph (d) of the proposal is designed to provide for transition from the existing inspection system to the proposed system. It would require that each locomotive receive an initial periodic inspection before April 2, 1980. The April 2, 1980 date assumes an effective date of January 1, 1980 for the proposed revision. The initial periodic inspection would include every test, procedure, and inspection required by proposed Part 229, with two minor exceptions. If the main reservoir tests required by § 229.31 or the air brake cleaning and testing required by § 229.29 was made during calendar year 1979, the test or tests could be postponed until the fifth periodic inspection.

Paragraph (e) of the proposal would provide that the initial periodic inspection shall be numbered "1" and succeeding inspections numbered consecutively. The numbering system is designed to assist the FRA and the carriers by providing an easy reference for determining when the various tests and inspections are due. Thus, if a certain test is due at every fourth periodic inspection and the last such test was made at periodic inspection number 5, the test would be due at periodic inspection number 9.

Paragraph (g) of the proposal provides that any test done between periodic inspections shall be attributed to the periodic inspection preceding the date of the test. The purpose of this provision and of the proposed inspection system is to insure that each locomotive receives a thorough inspection at each periodic inspection. Paragraph (g) is also

necessary since all tests under the proposal would be tied to the periodic inspection number rather than to specific dates.

§ *229.25 Tests: Every periodic inspection.* Proposed § 229.25 brings together the tests and procedures that are to be accomplished at every periodic inspection. These tests and procedures are currently scattered throughout Part 230. Paragraph (a) is essentially identical with current § 230.207(b). The change in terminology from "air gauges" to "brake gauges" is intended to include hydraulic gauges, brake pipe flow indicators, and other types of gauges used in the brake system. Load meters used in conjunction with a auxiliary brake system would not be included since they would be covered by proposed § 229.27(b).

Paragraph (b) is similar to current § 230.254, except that electrical devices would now be covered. Also, the time interval would be every periodic inspection rather than monthly.

Paragraph (c) is essentially identical to current § 230.247(b).

Paragraph (d) is a revised version of current §§ 230.307(c); 230.308(b); 230.315(b), (c), and (d); and 230.316(b).

§ *229.27 Tests: Every Fourth periodic inspection.* Proposed § 229.27 brings together the tests and procedures that are to be done at least once every fourth periodic inspection. Paragraph (a) is derived from current § 230.208(a), (b), and (d). Under the proposed revision, the time interval for cleaning, repairing, or replacing the filtering devices and dirt collectors located in the main air reservoir supply line would be extended from the current six month interval to every fourth periodic inspection. FRA believes that this change is warranted because filtering devices now in use have proved to be more than adequate for present operations. Also, the current rule requires that each part be stenciled with the date and place of the testing or cleaning, or that a card containing that information be displayed in the cab of the locomotive. Under the proposal, only the date and place of the testing or cleaning would be entered on FRA Form 6180.49A. At the carrier's option, the detailed information for each part may be retained in the carriers' maintenance records or on a card in the cab.

Paragraph (b) is a concise revision of current § 230.252. The test interval for load meters (voltmeters and ammeters) on units receiving power from an outside source would be changed from "not less frequently than once every six months" to "at least once every fourth periodic." This change would make the test interval for all load meters uniform. The FRA believes that the change will not diminish safety because of the absence of injuries stemming from load meters receiving power from an outside source.

Paragraph (c) of the proposal is derived in part from current § 230.309(a). It is also proposed to require that the visual return water-flow indicator be removed and inspected. The sight glass of the indicator is subject to wear which can cause it to break, thus creating a personal injury hazard.

§ *229.29 Test: Every eight periodic inspection.* The proposed section is essentially identical to current § 230.208(c).

§ *229.31 Main reservoir tests.* The proposed section is essentially identical to current § 230.206. However, the interval between main reservoir tests for non-aluminum reservoirs would be extended from 18 months to every eight periodic inspection, which would normally be 24 months. MU locomotive main reservoirs and aluminum main reservoirs are currently on a 24-month test interval. The time extension between tests is based on the current performance record. The FRA is not aware of any main reservoir failures or any accidents attributable to mechanical defects in the main reservoir. FRA estimates that less than 300 locomotives have reservoirs that require a hammer or a hydro test.

Subpart C—Safety Requirements

General Requirements

§ *229.41 Protection against personal injury.* The proposal brings together the various provisions in the current regulations that relate to protection against personal injury, including §§ 230.229(i) (fan openings), 230.218(a) (gears and pinions), 230.258(a) (exposed moving parts), and 230.244 and 230.246 (electrical equipment). The general requirement would also cover other situations that may arise which present a personal injury hazard.

§ *229.43 Exhaust gases.* Proposed § 229.43 is a consolidation of current §§ 230.259 and 230.327. The provision is written to cover all products of combustion of a locomotive.

§ *229.45 General condition.* Proposed § 229.45 would require that all systems and components of a locomotive be free of conditions that endanger the safety of the crew, locomotive, or train. While this is a broadly stated provision, it tracks the concept of section 2 of the Locomotive Inspection Act that a locomotive and all its parts must be in proper condition and safe to operate in the service to which it is put. The discretion of FRA inspectors to determine unsafe conditions is a necessary element of locomotive inspection regulation. This discretion is found throughout the current rules in phrases such as "safe and suitable" and "ample strength".

The general requirement provides a mechanism that will allow a significant reduction in the regulations that deal with components that are only rarely found in the current locomotive fleet. Motor, main, and side rods, crank pins, and trolly appurtenances are examples of components that are still in use on a very limited number of locomotives. The general requirement also eliminates the necessity of repeating in each provision a requirement that a component must be in place and performing its intended function.

The provision on the general condition of a locomotive sets forth certain categories of unsafe conditions. These categories provide a method of consolidating several current provisions that are essentially similar, e.g., sections that all deal with leaks. The first category is insecure attachment of components, including third rail shoes and beams, traction motor and motor gear cases, and fuel tanks. The second category is leaks, including fuel, oil, water, steam, and other leaks that create a personal injury hazard. This would consolidate current §§ 230.250 (liquid filled transformers) 230.255(a) and 230.323(a) (fuel tanks and related piping), 230.262(b) (engine and accessories), and 230.321(a) (steam generator). The third category is improper functioning of components, including slack adjusters (§ 230.209(b)), pantagraph operating cylinders (§ 230.238(f)), circuit breakers, contactors, relays, switches, and fuses (§ 230.246). The fourth category is cracks, breaks, excessive wear, and other structural infirmities of components, including quill drives (§ 230.217), axles (§ 230.213), gears and pinions (§ 230.218), pantagraph shoes and horns (§ 230.238(e)), third rail beams (§ 230.240(b)), wires and cables (§ 230.248), traction motor gear cases, and fuel tanks.

Brake Systems

§ *229.46 Brakes: General.* This provision is a more concise restatement of current § 230.204(a). The requirement that oil be drained from the air brake system is incorporated from an essentially identical requirement in current § 230.205(f), which would be deleted.

§ *229.47 Emergency brake pipe.* Proposed § 229.47 is essentially identical

to current § 230.204(b). However, the requirements of the section would be extended to MU locomotives. FRA believes that all MU locomotives currently meet the proposed requirements because they are equipped with an emergency brake pipe valve in the vestibule of the locomotive.

§ *229.49 Main reservoir system.* The proposed requirements for air compressors differ from the existing requirements in several ways. Current § 230.205(d), which requires that an orifice test be made not less frequently than every three months, would be deleted. The FRA believes that improvements in air compressors and the questionable value of the orifice test in identifying defective compressors warrant its elimination.

The capacity requirement for the air compressor in current § 230.205(e) would also be eliminated because a compressor with less than 80 percent of original capacity might provide sufficient air and one with more than 80 percent capacity might not.

Current paragraph (f) would be deleted from this section because proposed § 229.46 would require that oil be drained from the air brake system.

FRA does not have any reports of accidents or casualties resulting from the inadequacy of the air compressor production capacity. It is anticipated that there will be an annual savings of approximately $1 million from the elimination of the orifice test.

§ *229.51 Aluminum main reservoirs.* This section is the same as current § 230.206a.

§ *229.53 Brake gauges.* Proposed § 229.53 is essentially identical with current § 230.207(a). The term "air gauge" would be changed to "brake gauge". This change would bring hydraulic and other types of gauges used in brake systems under the scope of the section. The proposed rule also would provide that a gauge may not be more than 3 pounds in error. This standard is designed to insure the accuracy of the gauges within reasonable tolerances.

§ *229.55 Piston travel.* The proposed section is derived from current § 230.209. Paragraph (a) of the proposal is the same as § 230.209(a). Under current § 230.209(b), the maximum travel is prescribed for various types of brakes, but certain newer brakes are not covered. Rather than lengthen the list, a general requirement for all brake pistons is being proposed. It provides that the brake cylinder piston travel may not exceed two inches less than the total possible piston travel. Slack adjusters would be covered in § 229.45 under the proposed revision.

§ *229.57 Foundation brake gear.* The foundation brake gear requirements of current § 230.210 would be clarified under the proposal by spelling out what is intended by the current language, "ample strength". Proposed § 229.57 would provide that foundation brake components may not be worn through more than 30 percent of their cross-sectional area or cracked.

§ *229.59 Leakage.* Except for editorial changes, proposed § 229.59 is the same as current § 230.211.

Draft System

§ *229.61 Draft systems.* Current § 230.212 sets forth the requirements for various types of coupler arrangements, including drawgear, drawbar, chafing irons, automatic couplers, friction draft gear, pins, and draft gear. Proposed § 229.61 would revise and restructure the current rule to clarify and simplify the language. The proposed section would encompass yoke, draft gear, and securement pin requirements, and it would spell out more clearly what are defects in draft arrangements. Though the proposed language differs from the existing language, the revision is not intended to change the substantive requirements of the section.

Suspension System

§ *229.63 Lateral motion.* The current requirements of § 230.220 would remain unchanged except that language considered by the FRA to be surplusage has been deleted.

§ *229.64 Plain bearings.* The current requirements in § 230.219 applicable to bearings are drafted in archaic language and unnecessary detail. The proposal would require that a plain bearing box contain free oil and not be cracked to the extent that it will leak oil. During the period January 1, 1977, to September 30, 1978, only five accidents were caused by a failure of a bearing.

§ *229.65 Spring rigging.* The proposed section is similar to current § 230.222. Paragraph (a) of the current rule would be deleted since the concept of proper functioning of components would be encompassed in the general condition requirement of § 229.45. Second, a new paragraph covering shock absorbers would be added. Third, the proposed revision would permit one elliptical spring in a spring nest of three or more springs to have its top leaf or any three leaves broken. This change is warranted because the current rule was drafted with a single spring rather than a spring nest in mind.

§ *229.67 Trucks.* The proposed provision is quite similar to current § 230.223 in the significant substantive areas. Paragraph (b) (centering devices), and paragraph (f) (radius bar pins), would be deleted from the current rule under the proposal. The provision on radius bar pins is obsolete. The requirement for a centering device is unnecessary because of current locomotive design. Additionally, paragraph (c) of the current rule, which requires safety chains to prevent sluing in case of derailment, would be broadened to allow the use of other devices or arrangements that will prevent the truck and locomotive body from separating in case of derailments. Finally, paragraphs (d), (e), (g), and (h) of § 230.223 have been consolidated into a new paragraph (§ 229.67(c)).

§ *229.69 Side bearings.* Proposed § 229.69 is essentially identical to current § 230.224.

§ *229.71 Clearance above top of rail.* The proposed provision is identical to the current provision in § 230.225.

§ *229.73 Wheel sets.* Proposed § 229.73 is based upon current § 230.226. Paragraphs (a), (e), (f), (g), (h), (i), (j), and (k) of the current rule would be deleted under the proposed revision. The FRA feels that the requirements in those provisions are obsolete or have very limited applicability because of the number of wheels affected. Also, some of the requirements have only an indirect relation to safety.

Second, the permissable variation of the size of the wheels mounted on the same axle would be amended to two tape sizes from the current requirment (§ 230.226(b)) that the wheel diameters may not vary more than $\frac{3}{32}$ inch. Except for MU's, the substantive change would be minimal, and the proposed unit of measurement would conform to industry practice. Under current § 230.420(b), circumference of wheels on the same axle on an MU locomotive may not vary more than $\frac{1}{16}$ inch. Two tape sizes (equivalent to ¼ inch) would be an increase in the permissable tolerance.

Third, wheel gauge requirements for wide flange wheels would be specified under proposed paragraph (c). There is currently a possibility of direct interference between wide flange wheels and the track. This problem has been implicated in past derailments.

Fourth, paragraph (b) of the proposal includes a new requirement that would prohibit a variation of more than ¾ inch in the diameter of any two wheel sets on a three-powered-axle truck. It would also prohibit a variation of more than 1¼ inch in the diameter of wheel sets on different trucks of a locomotive that has

three-powered-axle trucks. (The diameter of a wheel set is the average diameter of the wheels on an axle.) The FRA believes that this requirement is necessary because excessive mismatch can induce false wheel slip indications and subsequent sanding. The sanding may substantially increase the ratio of lateral to vertical forces.

§ *229.75 Wheel and tire defects.* This provision is substantially the same as current § 230.227. The current provision would be revised by deleting paragraph (1) because out of gauge wheels are dealt with in proposed § 229.73(c).

Second, proposed § 229.75 would make all wheel and tire requirements uniform. Current § 230.228 (minimum tire thickness) would be deleted.

Third, the restrictions on welded wheels, current § 230.227(o), would be amended to clarify that a wheel that has been welded always remains a welded wheel. The welding process affects the heat tempering of the wheel and reduces its strength. Even if the weld has worn off through wear and is no longer visable, the wheel would remain a welded wheel since its strength is still reduced.

Fourth, the flange width condemning limit has been reduced to ⅞ inch from 1 5/16 inch. Since the adoption of the current limits, the quality of wheels has substantially improved due to the introduction of new materials and more advanced manufacturing practice. Iron wheels have been replaced by steel wheels. The FRA believes that advances in forging and casting techniques and heat control have improved the structural integrity of wheels to justify the proposed extended wear limits.

Fifth, two current requirements applicable to MU locomotives (Subpart D of Part 230) would be changed to conform with the requirements for other locomotives in current Subpart C. Slide flat spot defects and shelled out spot defects on MU locomotive wheels would be extended from the current 1½ inches to 2½ inches. FRA believes that a single limit applicable to all locomotives powered by other than steam power is preferable and that this change will not adversely affect safety.

§ *229.77 Current collectors.* Proposed § 229.77 is essentially identical with paragraphs (b), (c), and (d) of current § 230.238. Paragraphs (a), (e), and (f) would be consolidated in proposed § 229.45.

§ *229.79 Third rail shoes and beams.* Proposed § 229.79 is essentially identical to current § 230.240(a). Paragraph (b) of § 230.240 would be consolidated in proposed § 229.45.

§ *229.81 Emergency pole; shoe insulation.* Proposed § 229.81 is identical with current § 230.241.

§ *229.83 Insulation or grounding of metal parts.* This provision is essentially identical to current § 230.243.

§ *229.85 Doors and cover plates marked "Danger".* This provision is essentially identical to current § 230.245.

§ *229.87 Hand operated switches.* The provision is essentially identical to current § 230.246(a). Paragraphs (b) and (c) of current § 230.246 would be incorporated in proposed §§ 229.45 and 229.41.

§ *229.89 Jumpers; cable connections.* Proposed § 229.89 is derived from paragraphs (a) and (c) of current § 230.247, which have been rewritten for clarity.

§ *229.91 Motor and generators.* This provision is an edited version of current § 230.249. The present requirement in §§ 230.249 and 230.444 that motors and generators be "securely fastened in place" would be covered under § 229.45. The requirements applicable to MU locomotives under current § 230.444 are not as specific as those proposed. The proposed additional language, however, would not add any new substantive requirements.

Internal Combustion Equipment

§ *229.93 Safety cut-off valve.* This provision is essentially the same as current §§ 230.255(b) and 230.323(b).

§ *229.95 Venting.* The requirements of this proposed section are found in current §§ 230.256(a) and 230.323(c). The FRA proposes to delete the requirement of § 230.256(b) for a guage that will indicate the level of fuel in the fuel reservoirs. While such a gauge may be useful, the FRA does not believe it is necessary from the standpoint of locomotive safety.

§ *229.97 Grounding fuel tanks.* This provision is identical to current § 230.257.

§ *229.99 Safety hangers.* This provision is essentially the same as current § 230.261.

§ *229.101 Engines.* This provision is an edited version of current § 230.262. The revision would clarify the relationship of tagging, slip/slide requirements, and movement of locomotive with a tagged engine. It would provide explicitly that whenever an engine shut down on a locomotive in road service negates wheel slip/slide protection, the locomotive may only be moved to the nearest point or the nearest forward point where repairs necessary to restore wheel slip/slide protection can be made. It also specifically provides that a locomotive with a tagged engine may continue in service if wheel slip/slide protection required by § 229.115 is not negated.

Steam Generators

Sections 230.300 through 230.329 of the current rules relate to "steam boilers" used with locomotives powered by other than steam. The FRA proposes to revise and update these sections since many are archaic in language and substance. There are currently only about 450 steam generators available for use. The total includes many steam generators that are in storage. Approximately 170 locomotives are equipped with one or more steam generators. All 450 steam generators were built by the same manufacturer and are similar in design and performance.

FRA proposes to delete the following current provisions pertaining to steam boilers:

§ 230.301 Stresses, staybolts, braces.
§ 230.302 Strength of materials.
§ 230.304 Interior inspection.
§ 230.305 Method of inspection.
§ 230.306 Cracks.
§ 230.308 Exterior inspection.
§ 230.310 Test of rigid staybolts.
§ 230.311 Staybolts with caps; examination.
§ 230.312 Flexible staybolts without caps.
§ 230.313 Broken staybolts.
§ 230.314 Telltale holes.
§ 230.319 Water tubes; flared or beaded; defects.
§ 230.320 Boiler washing.
§ 230.322 Feed-water tanks and piping.
§ 230.323 Fuel tanks and piping.
§ 230.324 Feed-water and fuel-oil reservoir testing.
§ 230.325 Boiler and reservoir inspection.
§ 230.326 Steam headers.
§ 230.332 Quarterly boiler inspection and report.

Additionally, FRA proposed to delete portions of current § 230.303, 230.307, 230.309, 230.316, 230.317, 230.321, and 230.327. Finally, FRA proposed to reword and clarify many of the remaining rules or portions of the rules.

These changes are proposed for a number of reasons. First, the provisions regarding fire tube boilers and staybolts are archaic. Steam generators now in use do not have these features. Second, Form 4B, "Specification for Boilers", and Form 19B, "Alteration Report for Boiler", were designed for steam locomotive boilers.

The detailed information and control provided by these reports was necessary for steam locomotive boilers due to the wide variation of boiler types. Third, the boiler washout requirement is not necessary for safety for current generation steam generators. The requirement was necessary for safety for tube type boilers, but steam

generators have a forced circulation type boiler. Hence, inadequate boiler washout will only lead to inefficiency or shut-down. Fourth, the test procedures in current § 230.309(b) are obsolete and inappropriate for steam generators. The general requirement in proposed § 229.45 that the steam generator be free from leaks provides an adequate safeguard. Similarly, the test procedures of current § 230.316(b) requiring two gauges are obsolete. Fifth, the provisions relating to feed-water appliances are maintenance oriented. Failure of these devices will cause an automatic shut-down, but do not create a safety hazard. Sixth, the requirement of current § 230.323 (fuel tanks and related piping) are not necessary since the fuel system would be subject to proposed §§ 229.45, 229.93, and 229.95.

The following chart is a cross-reference of the proposed sections on steam generators to the current sections:

Proposed	Current
§ 229.103	§ 230.300
§ 229.105	§ 230.303(a)
§ 229.107	§ 230.315(a), (d)
§ 229.109	§ 230.316(a)
§ 229.111	§ 230.317(f), (g), (h), (i)
§ 229.113	§ 230.321(e)

The proposed sections do not establish any new substantive requirements. The proposed section on tagging (§ 229.113) specificially provides that a locomotive with a tagged steam generator may continue in service until the next periodic inspection. Under § 229.23 (a) and (c) of the proposed revision, the steam generator would either have to be repaired at the next periodic inspection or certain steps taken to render the steam generator inoperable.

Cabs and Cab Equipment

§ *229.115 Slip/slide alarms.* The requirements relating to slipping or sliding wheel alarms in current § 230.201(d) would be revised. Paragraph (a) of the proposal provides that when locomotives used in road service are coupled in multiple control, the alarm for each locomotive shall be shown in the cab of the controlling locomotive. This is a clarification of the current rule.

It is also proposed to require that all new locomotives built after January 1, 1980, be designed with a wheel slip/slide device for each powered axle that produces an audible or visual alarm in the cab. The FRA believes that all locomotives now being built are equipped with some type of slip/slide device. However, certain MU locomotives being built may not have devices that produce an alarm in the cab.

§ *229.117 Speed indicators.* The FRA is proposing to require that all locomotives used at speeds in excess of 20 miles per hour (m.p.h.) be equipped with operative, reasonably accurate speed indicators. Since the proposed rule would apply to any locomotive operated at speeds above 20 m.p.h., most yard locomotives and other locomotives operated wholly under carrier "restricted speed" rules would not be subject to the rule.

The importance of speed control to railroad safety is manifest. Compliance with the FRA Track Safety Standards (49 CFR Part 213) assumes accurate knowledge of speed on the part of engine crews. Similarly, compliance with requirements for signal protection (I.C.C. Docket No. 25943) is not possible absent careful attention to train speeds. High speed operations and environmental conditions such as fog and heavy rain often make reliable estimation of speed difficult or impossible, for even a seasoned locomotive engineer. Indeed, exact estimation of speed is difficult under any conditions.

Each speed indicator would have to be accurate to within 3 m.p.h. of actual speed at speeds at and above 20 m.p.h. While some comments elicited by the advance notice (39 FR 4929) suggested that greater tolerances might be appropriate, the FRA has noted that the commonly employed devices make provision for calibration to account for wheel wear and other factors. Since speed control is critical to the safety of railroad operations, the FRA believes it would be proper to allow for a greater margin of error only if a convincing technical case can be made that a significant number of the devices now in service cannot be maintained within the 3 m.p.h. limitation, given a reasonable level of periodic attention.

The proposed rule would also require that the speed indicator be clearly readable from the position of the individual in control of the locomotive under all light conditions. A test of the speed indicator by means of a speed test section or an equivalent procedure would be required as soon as possible after departure.

Based on available data, the FRA does not believe that the proposed requirements for speed indicators would impose significant costs on the railroad industry. While installation costs for speed indicators may range well in excess of $1,000 per unit depending on the technology employed, survey information developed as early as 1972 indicated that substantially all locomotives used in road service were already so equipped. The FRA is not aware of any road locomotive produced since that time that was not equipped with a speed indicator.

§ *229.119 Cabs, floors, and passageways.* Proposed § 229.119 is a revised version of current § 230.229. Paragraph (a) of the current rule, defining a cab, would be found in the proposed definition section (§ 229.5(a)). A new paragraph (a) would require that the cab seats be securely mounted and braced, and that the cab doors be equipped with an operable latching device. Between January 1, 1977, and September 30, 1978 there was a total of 141 injuries related to cab seats and 190 injuries related to locomotive doors.

The current requirements in § 230.229(b) that the cab and superstructure be securely attached and braced would also be deleted. This requirement is a carry over from the steam locomotives where the cab was a separate component attached to the locomotive frame. The requirements relating to cab windows in paragraphs (b) and (c) of the current rule would be consolidated into a new paragraph (b). Cab windows in the lead locomotive would have to provide an undistorted view of the right of way for the crew from their normal position under all operating conditions. Thus, the glazing material would have to be free of cracks, tinting, crazing, or other conditions that distort the crew's vision. Means would also have to be provided to insure an undistorted view in rain and frost conditions and to keep the window free of foreign matter. The current requirements regarding the type of glazing material would be deleted since glazing material requirements are the subject of a pending Notice of Proposed Rulemaking (43 FR 47579). The current glazing requirements of current § 230.229(b) would be retained until other glazing requirements are established.

The current requirement in § 230.229(e) for floor coverings would be deleted because modern locomotive design make it unnecessary. FRA also proposes to delete that portion of current § 230.229(f) that specifies where and how the cab temperature is to be determined. Proposed § 229.119(d) provides simply the cab shall be provided with a heating arrangement that will maintain a temperature of not less than 50 degrees Fahrenheit.

A new paragraph (e) in § 229.119 would provide that all forward facing openings in the front of the locomotive be sealed or arranged so that they do

not provide an entry for flammable liquids into the cab in the event of an accident. This proposed requirement is now an industry standard for new locomotives. FRA believes that retrofitting the existing fleet is warranted in light of the number and severity of grade crossing accidents involving tank trucks. The FRA believes that only a very small portion of the locomotive fleet would have to be retrofitted. There was a reported total of 13 grade crossing accidents between 1974 and 1977 in which flammable liquids entered a locomotive cab. These accidents resulted in three fatalities and 12 injuries.

§ *229.121 Locomotive cab noise.* Proposed § 229.121 provides that noise level exposure in the cab may not exceed specific prescribed levels. Employee exposure would be limited to 90 dB(A) as an eight-hour time-weighted average, with a 5 dB doubling rate (the amount by which the exposure intensity may be increased when exposure time is decreased). For example, if the noise intensity doubled from 90 dB(A) to 95 dB(A), the permissible exposure time would be reduced from 8 hours to 4 hours. The proposed noise standards also include an absolute upper noise level limit of 115 dB(A). These standards are generally accepted and are the General Industry Standard adopted by the Occupational Safety and Health Administration, Department of Labor (29 CFR 1910.95).

The FRA believes that these noise limits take into account speech interference, risk of hearing impairment, and the need for preserve employee altertness. FRA noise investigations have noted that in some cases air horns and air brake exhaust can cause high noise levels in the cab. The proposed noise level requirements might necessitate relocation of the air horn and muffling or redirection of the air brake exhaust on a few locomotives. Apart from these two items, FRA's tests of older locomotives indicate that they can meet the proposed standards if they are properly maintained.

§ *229.123 Pilots, snowplows, end plates.* Proposed § 229.123 would alter the current provisions of § 230.230 in two ways. First, it would include snowplows and end plates. Additionally, each lead locomotive would be required to be equipped with a pilot, a snowplow, or an end plate to help deflect objects on the track. The FRA believes that most locomotives meet the requirements of proposed § 229.123. However, with the recent removal of footboards from switching locomotives, one of these devices should be installed on those locomotives. In calendar year 1977, 68 derailments resulted from foreign objects on the track.

§ *229.125 Headlights.* Proposed § 229.125 is a modified and condensed version of current § 230.231. It would be modified to set specific light intensities, measured in candela. The current approach for determining light intensities is imprecise and unscientific. Section 230.231 uses language such as "usual visual capacity required of enginemen", "large as a man of average size", and "dark object." Proposed § 229.125 would specify that locomotives used in road service shall have a headlight that produces at least 200,000 candela and that yard locomotive have at least 60,000 candela headlights. FRA believes that the intensity levels precribed in the proposed rule are sufficient and can be met by locomotives in the existing fleet.

§ *229.127 Cab lights.* Proposed § 229.127 is essentially the same as current § 230.233. Paragraph (c) of the current rule would be deleted since it is redundant of paragraph (a). Paragraph (d) of the current rule (proposed § 229.127(c)) would be revised to delete the requirement for dual lighting circuitry where the cab lights are not supplied from storage batteries and to add the requirements that batteries be kept from gassing. FRA believes that the dual circuitry requirement does not need to be mandated in light of current locomotive design. Gassing batteries present a personal injury hazard.

§ *229.129 Audible warning device.* Proposed § 229.129 would update the current whistle requirements in current § 230.234 in two ways. The revision would use the term "audible warning devices" instead of "whistle" and would set minimum sound level standards for the required device. The minimum sound level would be 96 dB(A) measured at 100 feet forward of the locomotive in its direction of travel. It is also proposed to require that at least one chime of the device face in the direction of travel.

FRA believes that these requirements are necessary to insure that the devices sound at an adequate intensity level in the direction of travel. The intensity level is an important element of the warning to persons and vehicles that the device is designed to provide. The FRA believes that there is an inherent hazard where all chimes face in the forward direction and the locomotive is being operated in reverse. This type of operation greatly reduces the sound propagation in the direction of locomotive movement and, therefore, impairs the effectiveness of the audible warning device.

The FRA recognizes that audible warning devices cannot always be relied upon as the primary means of warning at rail-highway grade crossings. Therefore, recent regulatory efforts have been directed towards enchaning other warning capabilities of a locomotive (ANPRM, Strobe Lights On Locomotives, 43 FR 9324).

The FRA believes that locomotives in the existing fleet can meet the sound intensity level if the audible warning device is functioning properly. The FRA estimates that approximately 95% of road locomotives and 33% of switching locomotives are presently equipped with forward and rearward facing horns.

§ *229.131 Sanders.* The proposed section on sanders is essentially a restatement of the current requirements in § 230.235. Section 229.135 would exclude MU and cab control locomotives from the requirement to have sanders. MU locomotives are not now required to have sanders. Cab control locomotives would be excluded because they do not have powered wheels. The requirement in the proposal that sanders shall be operable replaces the current requirement that the sanding apparatus be tested before each trip.

Subpart D—Design Requirements

§ *229.141 Body structure, MU locomotives.* This provision is the same as current § 230.457.

Environmental Impact

On March 16, 1979, the FRA published (44 FR 16062) revised procedures for insuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA", 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act ("DOT Act", 49 U.S.C. 1651 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.113.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures contain a provision that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve diverse factors, including environmental controversiality; the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f)

of the DOT Act; and the possible increase in traffic congestion. The proposed revision of locomotive inspection requirements meets the seven criteria that establish an action as a non-major action.

For the reasons above, the FRA has determined that the proposed revision of Part 230, locomotive inspection requirements, does not constitute a major FRA action requiring an environmental assessment.

Economic Impact

FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a Regulatory Analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this proposal in accordance with DOT's policies for the evaluation of regulatory impacts. Since the proposed regulations would, on balance, reduce the number of regulatory requirements currently in effect, and reduce existing regulatory burdens, FRA concludes that a detailed evaluation is not warranted (Regulatory Policies and Procedures, 44 FR 11034, February 26, 1979).

Written Comments and Hearing

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before July 23, 1979 will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on July 10, 1979, in Room 3201, 2100 Second Street, S.W., Washington, D.C. at 10:00 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of FRA will make an opening statement outlining the matter set for the hearing. Interested persons will then have the opportunity to present their oral statements.

At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and will be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590 (Phone 202–426–8836), before July 6, 1979, stating the amount of time required for the initial statement.

(Secs. 1, 2, 5, 9, 36 Stat. 913, 914 (45 U.S.C. 22, 23, 28, 34); sec. 6(e) and (f), 80 Stat. 939, 940 (49 U.S.C. 1655(e) and (f).)

Issued in Washington, D.C. on July 16, 1979.

John M. Sullivan,

Administrator.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

The Proposed Rule

In consideration of the foregoing, the FRA proposes the following:

1. To revise Part 230 (49 CFR Part 230) to read as follows:

PART 230—STEAM LOCOMOTIVE INSPECTION

§ 230.0 Steam powered locomotives.

(a) No railroad may use a steam powered locomotive on its line unless that locomotive meets the requirements of 49 CFR Part 230, Subpart A (§§ 230.1–230.55) and Subpart B (§§ 230.101–230.162) as in effect on October 1, 1978.

(b) Any interested person may consult the October 1, 1978 revision of 49 CFR Parts 200–999 or obtain a copy of these regulations by contacting the Federal Railroad Administration, Office of Standards and Procedures, 400 7th St., SW., Washington, D.C. 20590.

Subpart A—Boilers and Appurtenances (Limited Applicability) [Reserved] Subpart B—Steam Locomotives and Tenders (Limited Applicability) [Reserved]

(Secs. 1, 2, 5, 9, 36 Stat. 913, 914 (45 U.S.C. 22, 23, 28, 34); sec. 6(e) and (f), 80 Stat. 939, 940 (49 U.S.C. 1655(e) and (f)).)

2. To adopt a new Part 229 (49 CFR Part 229) to read to follows:

PART 229—RAILROAD LOCOMOTIVE SAFETY STANDARDS

Subpart A—General

Sec.

Subpart B—Inspections and Tests

Subpart C—Safety Requirements

General Requirements

Brake System

Draft System

Suspension System

Electrical System

Internal Combustion Equipment

Authority: Secs. 1, 2, 5, 9, 36 Stat. 913, 914 (45 U.S.C. 22, 23, 28, 34); sec. 6(e) and (f), 80 Stat. 939, 940 (49 U.S.C. 1655(e) and (f)).

Subpart A—General

§ 229.1 Scope

This part prescribes minimum Federal safety standards for all locomotives except those propelled by steam power.

§ 229.3 Applicability.

This part applies to all common carriers by railroad as defined in the Locomotive Inspection Act (45 U.S.C. 22).

§ 229.5 Definitions.

As used in this part—

(a) "Cab" means that portion of the superstructure occupied by the crew in controlling the locomotive.

(b) "Carrier" means a common carrier by railroad subject to the Locomotive Inspection Act (45 U.S.C. 22).

(c) "Control cab locomotive" means a locomotive without propelling motors but with one or more control stands.

(d) "Locomotive" means a piece of equipment—

(1) With propelling motors designed for moving other equipment;

(2) With propelling motors designed to carry freight or passenger traffic or both; or

(3) Without propelling motors but with one or more control stands.

(e) "MU locomotive" means a locomotive within the meaning of paragraph (d)(2) or (3) of this section that is a multiple operated electrical locomotive.

§ 229.7 Prohibited acts.

(a) The Locomotive Inspection Act (45 U.S.C. 22–34) makes it unlawful for any carrier to use or permit to be used on its line any locomotive unless the entire locomotive and its appurtenances—

(1) Are in proper condition and safe to operate in the service to which they are put, without unnecessary peril to life or limb; and

(2) Have been inspected and tested as required by this part.

(b) A carrier that fails to comply with any provision of the Locomotive Inspection Act or of this part is subject to a penalty of not less than $250 and not more than $2,500 (45 U.S.C. 34)

§ 229.9 Movement for repair.

(a) A locomotive that does not comply with this part may not be moved from a point where repairs necessary to bring it into compliance can be made.

(b) A locomotive that does not comply with this part may only be moved to the nearest point or the nearest forward point where repairs necessary to bring it into compliance can be made if the carrier—

(1) Verifies that the locomotive is safe to move and prescribes appropriate restrictions to assure that the movement is made in a safe manner; and

(2) Displays "Bad order" tags or other written notices in the cabs of the controlling locomotive and the non-complying locomotive that contain the following information:

(i) The reporting mark and number of the defective locomotive.

(ii) The name of the inspecting railroad.

(iii) The inspection location and date.

(iv) The nature of the defect and movement restrictions.

(v) The destination for shopping and repair.

(vi) The signature of the person that determines the locomotive is safe to move and prescribes appropriate movement restrictions to assure safety.

(c) A locomotive within the meaning of § 229.5(d) does not cease to be a locomotive for purposes of this section because its propelling motors are inoperative or because its jumper cables are not connected or both.

§ 229.11 Locomotive identification.

The letter "F" shall be legibly shown on each side of every locomotive near the end which for identification purposes will be known as the front end. The locomotive number shall be displayed in clearly legible numbers on each side of each locomotive.

§ 229.13 Control of locomotives.

Whenever two or more locomotives are coupled in multiple control, the propulsion system, the sanders, the power brake system, and any auxiliary brake system if that auxiliary system is in use, including dynamic and regenerative brake systems, of each locomotive shall respond to control from the cab of the controlling locomotive.

§ 229.15 Final report.

(a) When a locomotive is permanently retired from sevice, the Form FRA F 6180–49A on the locomotive at that time shall be removed and filed within 30 days with the Federal Railroad Administration, RRS–25, Washington, D.C. 20590. Each form filed shall contain the following.

(1) The words "locomotive will not again be used by this company."

(2) The date and place the locomotive is retired from service; and

(3) A statement of the disposition of the locomotive.

(b) When a locomotive steam generator is permanently retired from service the Form FRA F 6180–49A on the locomotive shall contain the following:

(1) The words "steam generator will not again be used by this company."

(2) The date and place the steam generator is retired from service; and

(3) A statement of the disposition of the steam generator.

§ 229.17 Accident reports.

In the case of an accident due to a failure from any cause of a locomotive or any part or appurtenance of a locomotive, or a person coming in contact with an electrically energized part or appurtenance, that results in serious injury or death of one or more persons, the carrier operating the locomotive shall immediately report the accident by toll free telephone, Area Code 800–424–0201. The report shall state the nature of the nature of the accident, number of persons killed or seriously injured, the place at which it occurred, the location at which the locomotive may be inspected by the FRA, and the name, title and phone number of the person making the call. Where the locomotive is disabled to the extent that it cannot move under its own power, the part or parts affected by the accident shall be preserved by the carrier, so far as possible without hindrance or interference to traffic, until after the FRA inspection. Confirmation of this report shall be immediately mailed to the Federal Railroad Administration, RRS–25, Washington, D.C. 20590, and contain a detailed description of the accident, including to the extent known, the causes and a complete list of the killed and injured.

Subpart B—Inspections and Tests

§ 229.21 Daily inspection.

(a) Except for MU locomotives, each locomotive in service shall be inspected at least once during each calendar day. A written report of the inspection shall be made. This report of the inspection shall be made. This report shall contain the name of the railroad; the initials and number of the locomotive; the place, date and time of the inspection; a description of the non-complying conditions disclosed by the inspection; and the signature of the employee making the inspection. Except as provided in § 229.9(b), any conditions that constitute a violation of the Locomotive Inspection Act or any Federal Railroad Administration regulation shall be repaired before the locomotive is used. A notation shall be made on the report to indicate that the repairs have been made or that the locomotive has been tagged in accordance with § 229.9(b)(2). If repairs are made, the person making the repairs shall sign the report. The report shall be filed in the office of the railroad at the terminal at which the locomotive is cared for and retained for at least one year. A record shall be maintained on each locomotive showing the place, date and time of the previous inspection.

(b) Each MU locomotive in service shall be inspected at least once during each calendar day and a written report made of the inspection. This report may be part of a single master report covering an entire group of MU's. If any non-complying conditions are found, a separate, individual report shall be made containing the name of the railroad; the initials and number of the locomotive; the place, date, and time of the inspection; the non-complying conditions found; and the signature of the inspector. Except as provided in § 229.9(b), any conditions that constitute a violation of the Locomotive Inspection Act or any FRA regulation shall be repaired before the locomotive is used. The reports shall be filed in the office of the railroad at the place where the inspection is made and retained for at least one year.

§ 229.23 Periodic inspection: General.

(a) Each locomotive and steam generator shall be inspected at each periodic inspection to determine whether they comply with this part. All non-complying conditions shall be repaired before the locomotive or the steam generator is returned to service. Except as provided in paragraph (b) and (c) of this section, the interval between any two periodic inspections may not exceed 92 days. Periodic inspections shall only be made where adequate facilities are available. At each periodic inspection, a locomotive shall be positioned so that a person may safely inspect the entire undercarriage of the locomotive.

(b) If a locomotive is out of service when a periodic inspection becomes due, the periodic inspection of the locomotive and of its steam generator may be postponed indefinitely but shall be accomplished before the locomotive is returned to service.

(c) If a locomotive steam generator is out of service on the date that its periodic inspection becomes due, that periodic inspection may be postponed indefinitely if the water suction pipe to the water pump and the leads to the main switch (steam generator switch) are disconnected, and the train line shut-off-valve is wired closed or a blind gasket applied. However, the steam generator shall be so inspected before it is returned to service.

(d)(1) After December 31, 1979, each new locomotive shall receive an initial periodic inspection before it is placed in service. Before April 2, 1980, each locomotive in service on December 31, 1979 shall receive an initial periodic inspection. Except as provided in subparagraph (2) of this paragraph, the initial periodic inspection shall include every test, procedure, and inspection required in this part.

(2) The main reservoir tests specified by § 229.31 may be deleted from the initial periodic inspection of a locomotive if that locomotive received a main reservoir test during calendar year 1979. The air brake test specified by § 229.29 may be deleted from the initial periodic inspection of a locomotive if that locomotive received the air brake test during calendar year 1979. If a test is deleted from the initial periodic inspection, it shall be accomplished by not later than the fifth periodic inspection.

(e) The initial periodic inspection for each locomotive shall be numbered "1" and each succeeding periodic inspection shall be numbered consecutively. The date, place and periodic inspection number of each periodic inspection shall be recorded on Form FRA F 6180–49A. The form shall be signed by the person conducting the inspection and certified by that person's supervisor that the work was done. The form shall be displayed under a transparent cover in a conspicuous place in the cab of each locomotive. When a new form FRA F 6180–49A is placed in the cab, the last periodic inspection number, place, and date, and the last date, place, and periodic inspection number of each test performed under § 229.27 (a) and (b), 229.29, 229.31 (a), (b), and (d) shall be recorded on the form.

(f) At the first periodic inspection in each calendar year the carrier shall remove from each locomotive the Form FRA F 6180–49A covering the previous calendar year. If a locomotive does not receive its first periodic inspection in a calendar year before April 2nd because it is out of service, the form shall be promptly replaced. The FRA F 6180–49A forms for all locomotives, in or out of service, shall be certified by the railroad official responsible for the locomotive and filed not later than May 1 of each year with the Federal Railroad Administration, RRS–25, Washington, D.C. 20590.

(g) Any test required by this part that is made between any two periodic inspections shall be attributed to the preceding periodic inspection.

(h) The mechanical officer of each railroad in charge of a locomotive shall maintain in his office a secondary record of the information reported to the FRA on Form F 6180–49A under this part. The secondary record shall be retained for at least two years.

§ 229.25 Tests: Every periodic inspection.

Each periodic inspection shall include the following:

(a) All gauges used by the engineer for braking the train or locomotive, except load meters used in conjunction with an auxiliary brake system, shall be tested by comparison with a dead-weight tester or a test gauge designed for this purpose.

(b) All visible insulation and electrical devices shall be inspected.

(c) All cable connections between locomotives and jumpers that are designed to carry current of 600 volts or more shall be thoroughly cleaned, inspected, and tested. They shall be tested by immersing the cable portion in water and subjecting each conductor with another, and with the water, to a current of at least one and three-fourths times the normal working voltages for at least one minute. The date and place of the most recent inspection and test shall be legibly marked on the jumper or cable or on a securely attached tag.

(d) Each steam generator that is not isolated as prescribed in § 229.23(c) shall be inspected and tested as follows:

(1) All automatic controls, alarms and protective devices shall be inspected and tested.

(2) Steam pressure gauges shall be tested by comparison with a dead-weight tester or a test gauge designed for this purpose. The siphons to the

steam gauges shall be removed and their connections examined to determine that they are open.

(3) Safety valves shall be set and tested under steam after the steam pressure gauge is tested.

§ 229.27 Tests: Every fourth periodic inspection.

The following tests and inspections shall be made on each locomotive at least once every fourth periodic inspection:

(a)(1) The filtering devices or dirt collectors located in the main reservoir supply line to the air brake system shall be cleaned, repaired, or replaced.

(2) Brake cylinder relay valve portions, main reservoir safety valves, brake pipe vent valve portions, feed and reducing valve portions in the air brake system (including related dirt collectors and filters) shall be cleaned, repaired, and tested.

(3) The date and place of the cleaning, repairing, and testing shall be recorded on Form FRA F 6180–49A and the person performing the work and that person's supervisor shall sign the form. A record of the parts of the air brake system that are cleaned, repaired, and tested shall be kept in the carrier's files or in the cab of the locomotive.

(b) Load meters shall be tested. Errors of less than five percent do not have to be corrected. The date and place of the test shall be recorded on FRA F 6180–49A and the person conducting the test and that person's supervisor shall sign the form.

(c) Each steam generator that is not isolated as prescribed in § 229.23(c), shall be subjected to a hydrostatic pressure at least 25 percent above the working pressure and the visual return water-flow indicator shall be removed and inspected.

§ 229.29 Test: Every eighth periodic inspection.

Except for the valves and valve portions cleaned, repaired, and tested ever fourth periodic inspection as prescribed in § 229.27(a), all valves and valve portions in the air brake system (including related dirt collectors and filters) shall be cleaned, repaired, and tested not less frequently than once every eighth periodic inspection. The date and place of the cleaning, repairing, and testing shall be recorded on Form FRA F 6180–49A, and the person performing the work and that person's supervisor shall sign the form. A record of the parts of the air brake system that are cleaned, repaired, and tested shall be kept in the carrier's files or in the cab of the locomotive.

§ 229.31 Main reservoir tests.

(a) Except as provided in paragraph (c) of this section, before it is put in service and at least once every eighth periodic inspection, each main reservoir other than an aluminum reservoir shall be subjected to a hydrostatic pressure of at least 25 percent more than the maximum working pressure fixed by the chief mechanical officer. The test date, place, and pressure shall be recorded on Form FRA F 6180–49A, and the person performing the test and that person's supervisor shall sign the form.

(b) Except as provided in paragraph (c) of this section, each main reservoir other than an aluminum reservoir shall be hammer tested over its entire surface while the reservoir is empty at least once every eighth periodic inspection. The test date and place shall be recorded on Form FRA F 6180–49A, and the person performing the test and that person's supervisor shall sign the form.

(c) Each welded main reservoir originally constructed to withstand at least five times the maximum working pressure fixed by the chief mechanical officer of the railroad may be drilled over its entire surface with telltale holes that are three-sixteenths of an inch in diameter. The holes shall be spaced not more than 12 inches apart, measured both longitudinally and circumferentially, and drilled from the outer surface to an extreme depth determined by the formula—

$$D=(.6PR/(S-0.6P))$$

Where:

D = extreme depth of telltale holes in inches but in no case less than one-sixteenth inch;

P = certified working pressure in pounds per square inch;

S = one-fifth of the minimum specified tensile strength of the material in pounds per square inch; and

R = inside radius of the reservoir in inches.

One row of holes shall be drilled lengthwise of the reservoir on a line intersecting the drain opening. A reservoir so drilled does not have to meet the requirements of paragraphs (a) and (b) of this section, except the requirement for a hydrostatic test before it is placed in service. Whenever any such telltale hole shall have penetrated the interior of any reservoir, the reservoir shall be permanently withdrawn from service. A reservoir now in service may be drilled in lieu of the tests provided for by paragraphs (a) and (b) of this section, but it shall receive a hydrostatic test before it is returned to service.

(d) Each aluminum main reservoir before being placed in service and at least once every eighth periodic inspection thereafter, shall be—

(1) Cleaned and given a thorough visual inspection of all internal and external surfaces for evidence of defects or deterioration; and

(2) Subjected to a hydrostatic pressure at least twice the maximum working pressure fixed by the chief mechanical officer, but not less than 250 p.s.i. The test date, place, and pressure shall be recorded on Form FRA F 6180–49A, and the person conducting the test and that person's supervisor shall sign the form.

Subpart C—Safety Requirements

General Requirements

§ 229.41 Protection against personal injury.

Fan openings, exposed gears and pinions, exposed moving parts of mechanisms, pipes carrying hot gases, and high-tension equipment, switches, circuit breakers, contactors, relays, and fuses shall be in non-hazardous locations or equipped with guards to prevent personal injury.

§ 229.43 Exhaust gases.

Products of combustion shall be released entirely outside the cab and other compartments. Exhaust stacks shall be of sufficient height or means provided to prevent entry of product of combustion into the cab or other compartments.

§ 229.45 General condition.

All systems and components on a locomotive shall be free of conditions that endanger the safety of the crew, locomotive or train. These conditions include: insecure attachment of components, including third rail shoes or beams, traction motors and motor gear cases, and fuel tanks; fuel, oil, water, steam, and other leaks that create a personal injury hazard; improper functioning of components, including slack adjusters, pantagraph operating cylinders, circuit breakers, contactors, relays, switches, and fuses; and cracks, breaks, excessive wear and other structural infirmities of components, including quill drives, axles, gears, pinions, pantagraph shoes and horns, third rail beams, traction motor gear cases, and fuel tanks.

Brake System

§ 229.46 Brakes: General.

The carrier shall know before each trip that the locomotive brakes and pressure devices, including but not limited to the automatic and independent brake values, operate as

intended and that the water and oil has drained from the air brake system.

§ 229.47 Emergency brake pipe.

Each locomotive shall be equipped with a brake pipe valve that is accessible to a member of the crew other than the engineer. On car body type locomotives, a brake pipe valve shall be attached to the wall adjacent to each end exit door. The words "Emergency Brake Valve" shall be legibly stenciled near each brake pipe valve or shall be shown on an adjacent badge plate.

§ 229.49 Main reservoir system.

(a)(1) The main reservoir system of each locomotive shall be equipped with at least one safety valve that shall prevent an accumulation of pressure of more than 15 pounds per square inch above the maximum working air pressure fixed by the chief mechanical officer of the carrier operating the locomotive.

(2) Each locomotive that has a pneumatically actuated system of power controls shall be equipped with a separate reservoir of air under pressure to be used for operating controls other than brake controls. The reservoir shall be provided with means to automatically prevent the loss of pressure in the event of a failure of main air pressure, have storage capacity for not less than three complete operating cycles of control equipment and be located where it is not exposed to damage.

(b) A governor shall be provided that stops and starts or unloads and loads the air compressor within 5 pounds per square inch above or below the maximum working air pressure fixed by the carrier.

(c) Each compressor governor used in connection with the automatic air brake system shall be adjusted so that the compressor will start when the main reservoir pressure is not less than 15 pounds per square inch above the maximum brake pipe pressure fixed by the carrier and will not stop the compressor until the reservoir pressure has increased at least 10 pounds.

§ 229.51 Aluminun main reservoirs.

(a) Aluminum main reserviors used on locomotives shall be designed and fabricated as follows:

(1) The heads and shell shall be made of Aluminum Association Alloy No. 5083–0, produced in accordance with American Society of Mechanical Engineers (ASME) Specification SB–209, as defined in the "ASME Boiler and Pressure Vessel Code" (1971 edition), Section II, Part B, page 123, with a minimum tensile strength of 40,000 p.s.i. (40 k.s.i.).

(2) Each aluminum main reservoir shall be designed and fabricated in accordance with the "ASME boiler and Pressure Vessel Code," Section VIII, Division I (1971 edition), except as otherwise provided in this part.

(3) An aluminum main reservoir shall be constructed to withstand at least five times its maximum working pressure or 800 p.s.i., whichever is greater.

(4) Each aluminum main reservior shall have at least two inspection openings to permit complete circumferential visual observation of the interior surface. On reservoirs less than 18 inches in diameter, the size of each inspection opening shall be at least that of 1½-inch threaded iron pipe, and on reservoirs 18 or more inches in diameter, the size of each opening shall be at least that of 2-inch threaded iron pipe.

(b) The following publications, which contain the industry standards incorporated by reference in paragraph (a) of this section, may be obtained from the publishers and are also on file in the Office of Safety of the Federal Railroad Administration, Washington, D.C. 20590. Sections II and VIII of the "ASME Boiler and Pressure Vessel Code" (1971 edition) are published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Steeet, New York, New York 10017.

§ 229.53 Brake gauges.

All gauges used by the engineer for braking the train or locomotive shall be located so that they may be conveniently read by the enginer from his usual position in the cab. A gauge may not be more than three pounds per square inch in error.

§ 229.55 Piston travel.

(a) Brake cylinder piston travel shall be sufficent to provide brake shoe clearance when the brakes are released.

(b) When the brakes are applied on a standing locomotive, the brake cylinder piston may not exceed two inches less than the total possible piston travel.

§ 229.57 Foundation brake gear.

A lever, rod, brake beam, hanger, or pin may not be worn through more that 30 percent of its cross-sectional area or cracked. All pins shall be secured in place with cotters, split keys, or nuts. Brake shoes shall be fastened with a brake shoe key and aligned in relation to the wheel to prevent localized thermal stress in the edge of the rim or the flange.

§ 229.59 Leakage.

(a) Leakage from the main air reservoir and related piping may not exceed an average of 3 pounds per square inch per minute for 3 minutes after the pressure has been reduced to 60 percent of the maximum pressure.

(b) Brake pipe leakage may not exceed 5 pounds per square inch per minute.

(c) With a full service application at maximum brake pipe pressure and with communication to the brake cylinders closed, the brakes shall remain applied at least 5 minutes.

(d) Leakage from control air reservoir, related piping, and pneumatically operated controls may not exceed an average of 3 pounds per square inch per minute for 3 minutes.

Draft system

§ 229.61 Draft System.

(a) A coupler may not have any of the following conditions:

(1) A distance between the guard arm and the knuckle nose of more than 5⅛ inch on standard type couplers (MCB contour 1904); 5⁹⁄₁₆ inch on all other couplers.

(2) A crack or break in the side wall exceeding the limits shown in Figure 1 in the unshaded area shown in that figure or in the pulling face of knuckle.

(3) A coupler assembly without anti-creep protection.

(4) Free slack in the coupler or drawbar not aborbed by friction devices that exceeds one-half inch.

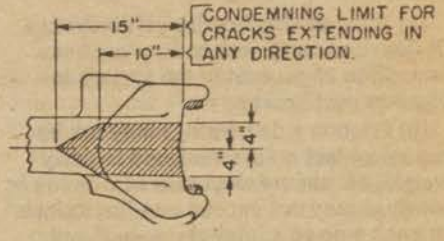
(5) A broken or cracked coupler carrier.

(6) A broken or cracked yoke.

(7) A broken draft gear.

(b) A device shall be provided under the lower end of all drawbar pins and articulated connection pins to prevent the pin from falling out of place in case of breakage.

FIGURE 1



Suspension System

§ 229.63 Lateral motion.

The total uncontrolled lateral motion between the hubs of the wheels and boxes, between boxes and pedestals or

both, on any pair of wheels may not exceed 1 inch on non-powered axles and ¾ inch on powered axles.

§ 229.64 Plain bearings.

A plain bearing box shall contain free oil and may not be cracked to the extent that it will leak oil.

§ 229.65 Spring rigging.

(a) Protective construction or safety hangers shall be provided to prevent spring planks, spring seats or bolsters from dropping to track structure in event of a hanger or spring failure.

(b) An elliptical spring may not have its top (long) leaf broken or any other three leaves broken except when that spring is part of a nest of three or more springs and none of the other springs in the nest has its top leaf or any three leaves broken. An outer coil spring or saddle may not be broken. An equalizer, hanger, bolt, gib, or pin may not be cracked or broken. A coil spring may not be fully compressed when the locomotive is at rest.

(c) A shock absorber may not be broken or leaking oil.

§ 229.67 Trucks.

(a) The male center plate shall extend into the female center plate not less than ¾ inch. On trucks constructed to transmit tractive effort through the center plate or center pin, the male center plate shall extend into the female center plate not less than 1½ inches. Maximum lost motion in a center plate assemblage may not exceed ½ inch.

(b) Each locomotive shall have a device or securing arrangement to prevent the truck and locomotive body from separating in case of derailment.

(c) A truck may not have a loose tie bar or a cracked or broken center casting, motor suspension lug, equalizer, hanger, gib or pin. A truck frame may not be broken or have a crack in a stress area that may affect its structural integrity.

§ 229.69 Side bearings.

(a) Friction side bearings with springs designed to carry weight may not have more than 25 percent of the springs in any one nest broken.

(b) Friction side bearings may not be run in contact unless designed to carry weight. Maximum clearance of side bearings may not exceed one-fourth inch on each side or a total of one-half inch on both sides, except where more than two side bearings are used under the same rigid superstructure. The clearance on one pair of side bearings under the same rigid superstructure shall not exceed one-fourth inch on each side or a total of one-half inch on both sides; the other side bearings under the same rigid superstructure may have one-half inch clearance on each side or a total of 1 inch on both sides. These clearances apply where the spread of the side bearings is 50 inches or less; where the spread is greater, the side bearing clearance may only be increased proportionately.

§ 229.71 Clearance above top of rail.

No part or appliance of a locomotive except the wheels and flexible nonmetallic sand pipe extension tips may be less than 2½ inches above the top of rail.

§ 229.73 Wheel sets.

(a) The variation in circumference of wheels on the same axle may not exceed two tape sizes when mounted or turned.

(b) The maximum variation in the diameter between any two wheel sets in a three-powered-axle truck may not exceed ¾ inch. The maximum variation in the diameter between any two wheel sets on different trucks on a locomotive that has three-powered-axle trucks may not exceed 1¼ inch. The diameter of a wheel set is the average diameter of the two wheels on an axle.

(c) On standard gauge locomotives, the distance between the inside gauge of the flanges on non-wide flange wheels may not be less than 53 inches or more than 53½ inches. The distance between the inside gauge of the flanges on wide flange wheels may not be less than 53 inches or more than 53¼ inches.

(d) The distance back to back of flanges of wheels mounted on the same axle shall not vary more than ¼ inch.

§ 229.75 Wheel and tire defects.

Wheels and tires may not have any of the following conditions:

(a) A single flat spot that is 2½ inches or over in length, or two adjoining spots that are each two or more inches in length.

(b) A missing or chipped portion of the flange that is more than 1½ inches in length and ½ inch in width.

(c) A broken rim, if the tread, measured from the flange at a point five-eighths inch above the tread, is less than 3¾ inches in width.

(d) A shelled-out spot 2½ inches or over, or a spall 1 inch in diameter or more in any area.

(e) A seam running lengthwise that is within 3¾ inches of the flange.

(f) A flange worn to a ⅞ inch thickness or less, gauged at a point ⅜ inch above the tread.

(g) A tread worn hollow 5/16 inch or more on road locomotive and ⅜ inch or more in switching service.

(h) A flange height of 1½ inches or more from tread to top of flange.

(i) Tires less than 1½ inches thick.

(j) Rims less than 1 inch thick in road service or less than ¾ inch in yard service.

(k) A radial crack or break in the flange, tread, rim, plate, or hub.

(l) A loose wheel or tire.

(m) Fusion welding may not be used on tires or steel wheels of locomotives, except for the repair of flat spots and worn flanges on locomotives used exclusively in yard service. A wheel that has been welded is a welded wheel for the life of the wheel.

Electrical System

§ 229.77 Current collectors.

(a) Pantographs shall be so arranged that they can be operated from the engineer's normal position in the cab. Pantographs that automatically rise when released shall have an automatic locking device to secure them in the down position.

(b) Each pantograph operating on an overhead trolley wire shall have a device for locking and grounding it in the lowest position, that can be applied and released only from a position where the operator has a clear view of the pantograph and roof without mounting the roof.

§ 229.79 Third rail shoes and beams.

When locomotives are equipped with both third rail and overhead collectors, third-rail shoes shall be deenergized while in yards and at stations when current collection is exclusively from the overhead conductor.

§ 229.81 Emergency pole; shoe insulation.

(a) Each locomotive equipped with a pantograph operating on an overhead trolley wire shall have an emergency pole suitable for operating the pantograph. The part of the pole which can be safely handled shall be marked. This pole shall be protected from moisture when not in use.

(b) Each locomotive equipped with third-rail shoes shall have a device for insulating the current collecting apparatus from the third rail.

§ 229.83 Insulation or grouding of metal parts.

All unguarded noncurrent-carrying metal parts subject to becoming charged shall be grounded or thoroughly insulated.

§ 229.85 Doors and cover plates marked "Danger.".

All doors and cover plates guarding high-tension equipment shall be marked with the word "Danger" and the normal voltage carried by the parts so protected.

§ 229.87 Hand-operated switches.

All hand-operated switches carrying currents with a potential of more than 150 volts that may be operated while under load shall be covered and shall be operative from the outside of the cover. Means shall be provided to show whether the switches are open or closed. Switches that should not be operated while under load shall be legibly marked with the words "must not be operated under load" and the voltage carried.

§ 229.89 Jumpers; cable connections.

(a) Jumpers and cable connections between locomotives shall be so located and guarded to provide sufficient vertical clearance. They may not hang with one end free.

(b) Cable and jumper connections between locomotive may not have any of the following conditions:

(1) Broken or badly chafed insulation.

(2) Broken plugs, receptacles or terminals.

(3) Broken or protruding strands of wire.

§ 229.91 Motors and generators.

A motor or a generator may not have any of the following conditions:

(a) Be shorted or grounded.

(b) Throw solder.

(c) Show evidence of coming apart.

(d) Have an overheated support bearing.

Internal Combustion Equipment

§ 229.93 Safety cut-out valve.

The fuel line shall have a safety cut-out valve that—

(a) Is located adjacent to the fuel supply tank or in another safe location;

(b) Closes automatically when tripped and can be reset without hazard; and

(c) Can be hand operated from a clearly marked location inside the cab and on each exterior side of the locomotive.

§ 229.95 Venting.

Fuel tank vent pipes may not discharge on the roof nor on or between the rails.

§ 229.97 Grounding fuel tanks.

Fuel tanks and related piping shall be electrically grounded.

§ 229.99 Safety hangers.

Drive shafts shall have safety hangers.

§ 229.101 Engines.

The temperature and pressure alarms, controls and related switches of internal combustion engines shall function properly. Whenever an engine has been shut down due to mechanical or other problems, a distinctive tag giving reason for the shut-down shall be conspicuously attached near the engine starting control until repairs have been made. A locomotive with a tagged engine may continue in service if wheel slip/slide protection is provided whenever required by § 229.115. Whenever an engine shut down on a locomotive in road service negates wheel slip/slide protection, the locomotive may only be moved to the nearest point or the nearest forward point where repairs necessary to restore wheel slip/slide protection can be made.

Steam Generators

§ 229.103 Safe working pressure; factor of safety.

The safe working pressure for each steam generator shall be fixed by the chief mechanical officer of the carrier. The minimum factor of safety shall be four. The fixed safe working pressure shall be indicated on FRA Form F 6180–49A.

§ 229.105 Steam generator number.

An identification number shall be marked on the steam generator's separator and that number entered on FRA Form F 6180–49A.

§ 229.107 Pressure gauge.

(a) Each steam generator shall have an illuminated steam gauge that correctly indicates the pressure. The steam pressure guage shall be graduated to not less than one and one-half times the allowed working pressure of the steam generator.

(b) Each steam pressure gauge on a steam generator shall have a siphon that prevents steam from entering the gauge. The pipe connection shall directly enter the separator and shall be steam tight between the separator and the gauge.

§ 229.109 Safety valves.

Every steam generator shall be equipped with at least two safety valves that have a combined capacity to prevent an accumulation of pressure of more than five pounds per square inch above the allowed working pressure. The safety valves shall be independently connected to the separator and located as closely to the separator as possible without discharging inside of the generator compartment. The ends of the safety valve discharge lines shall be located or protected so that discharged steam does not create a hazard.

§ 229.111 Water-flow indicator.

(a) Steam generators shall be equipped with an illuminated visual return water-flow indicator.

(b) Steam generators shall be equipped with an operable test valve or other means of determining whether the steam generator is filled with water. The fill test valve may not discharge steam or hot water into the steam generator compartment.

§ 229.113 Tagging.

Whenever any steam generator has been shut down because of defects, a distinctive tag giving reasons for the shut-down shall be conspicuously attached near the steam generator starting controls until the necessary repairs have been made. The locomotive in which the tagged steam generator is located may continue in service until the next periodic inspection.

Cabs and Cab Equipment

229.115 Slip/slide alarms.

(a) Except for MU locomotives, each locomotive used in road service shall be equipped with a device that provides an audible or visual alarm in the cab of either slipping or sliding powered wheels. When two or more locomotives are coupled in multiple control, the wheel slip/slide alarm of each locomotive shall be shown in the cab of the controlling locomotive.

(b) Effective January 1, 1980, all new locomotives capable of being used in road service shall be designed with a wheel slip/slide device for each powered axle that produces an audible or visual alarm in the cab. A powered axle is an axle equipped with a traction device.

229.117 Speed indicators.

(a) After December 31, 1979, each locomotive used as a controlling locomotive at speeds in excess of 20 miles per hour shall be equipped with a speed indicator which is—

(1) Accurate within ± 3 miles per hour of actual speed at speeds of 10 miles per hour and more; and

(2) Clearly readable from the engineer's normal position under all light conditions.

(b) Each speed indicator required shall be tested as soon as possible after departure by means of speed test sections or equivalent procedures.

(c) Where the cab is designed or arranged to be occupied by other crew members, the speed indicator on locomotives built after December 31, 1979 shall also be readable by a crew member other than the engineer from that crew member's normal position in the cab.

229.119 Cabs, floors, and passageways.

(a) Cab seats shall be securely mounted and braced. Cab doors shall be equipped with a secure and operable latching device.

(b) Cab windows of the lead locomotive shall provide an undistorted view of the right-or-way for the crew from their normal position in the cab.

(c) Floors of cabs, passageways, and compartments shall be kept free from oil, water, waste or any obstruction that creates a slipping, tripping or fire hazard. Floors shall be properly treated to provide secure footing.

(d) The cab shall be provided with proper ventilation and with a heating arrangement that maintains a temperature of at least 50 degrees Fahrenheit.

(e) After January 1, 1981, all forward facing openings in the front portion of the locomotive including nose doors, classification lights, number lights, headlights, and ventilation openings must be sealed or otherwise arranged so that they do not provide an entry way for flammable liquids into the cab in the event of an accident.

(f) Similar locomotives with open end platforms coupled in multiple control and used in road service shall have a means of safe passage between them; no passageway is required through the nose of car body locomotives. There shall be a continuous barrier across the full width of the end of a locomotive or a continuous barrier between locomotives.

(g) Closed metal containers shall be provided for carrying fusees and torpedoes. A single container may be used if it has a partition to separate fusees from torpedoes.

229.121 Locomotive cab noise.

(a) Noise level exposure in a locomotive cab may not exceed the following levels:

Duration per day hours of exposure	Sound level dB(A) slow response
16	85
12	87
8	90
6	92
4	95
2	100
1½	102
1	105
½	110
¼ or less	115

No exposure shall exceed 115dB(A).

(b) Noise measurements shall be made using a sound level meter conforming, at a minimum, to the requirements of ANSI S1.4–1971, Type 2, and set to an A-weighted slow response or with an audiodosimeter of equivalent accuracy and precision.

(c) When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect shall be considered. Exposure to different levels for various periods of time shall be computed according to the following formula:

$$D = T_1/L_1 + T_2/L_2 + \ldots . T_n/L_n$$

Where:

D = daily noise dose.

T = the period of noise exposure at any essentially constant level.

L = the duration of the noise exposure at the constant level (from the table).

If the value of D exceeds 1, the exposure exceeds permissable levels.

§ 229.123 Pilots, snowplows, end plates.

Each lead locomotive shall be equipped with an end plate that extends across both rails, a pilot, or a snowplow. The minimum clearance above the rail of the pilot, snowplow or end plate shall be 3 inches, and the maximum clearance 6 inches.

§ 229.125 Headlights.

(a) Each locomotive used in road service shall have a headlight that produces at least 200,000 candela. If the locomotive is regularly required to run backward for any portion of its trip other than to pick up a detached portion of its train or to make terminal movements, it shall also have a rear headlight that produces at least 200,000 candela.

(b) Each locomotive used in yard service shall have two headlights, one located on the front of the locomotive and one on the rear. Each headlight shall produce at least 60,000 candela.

(c) Headlights shall be provided with a device to dim the light.

§ 229.127 Cab lights.

(a) Each locomotive shall have cab lights which will provide sufficient illumination for the control instruments, meters, and gauges to enable the engine crew to make accurate readings from their normal positions in the cab. These lights shall be located, constructed, and maintained so that light shines only on those parts requiring illumination and does not interfere with the crew's vision of the track and signals. Each locomotive shall also have a conveniently located light that can be readily turned on and off by the persons operating the locomotive and that provides sufficient illumination for them to read train orders and timetables.

(b) Cab, passageways, and compartments shall have adequate illumination.

(c) Battery containers shall be vented and batteries kept from gassing.

§ 229.129 Audible warning device.

Each lead locomotive shall be provided with an audible warning device that produces a minimum sound level of 96dB(A) at 100 feet forward of the locomotive in its direction of travel. The device shall be arranged so that it can be conveniently operated from the engineer's normal position in the cab. At least one chime shall be facing in the direction of travel. Measurement of the sound level shall be made using a sound level meter conforming, at a minimum, to the requirements of ANSI S1.4–1971, Type 2, and set to an A-weighted slow response.

§ 229.131 Sanders.

Except for MU locomotives, each locomotive shall be equipped with operable sanders that deposit sand on each rail in front of the first power operated wheel set in the direction of movement.

Subpart D—Design Requirements

§ 229.141 Body structure, MU locomotives.

(a) MU locomotives built new after April 1, 1956 that are operated in trains having a total empty weight of 600,000 pounds or more shall have a body structure designed to meet or exceed the following minimum specifications:

(1) The body structure shall resist a minimum static end load of 800,000 pounds at the rear draft stops ahead of the bolster on the center line of draft, without developing any permanent deformation in any member of the body structure.

(2) An anti-climbing arrangement shall be applied at each end that is designed so that coupled MU locomotives under full compression shall mate in a manner that will resist one locomotive from climbing the other. This arrangement shall resist a vertical load of 100,000 pounds without exceeding the yield point of its various parts or its attachments to the body structure.

(3) The coupler carrier and its connections to the body structure shall be designed to resist a vertical downward thrust from the coupler shank of 100,000 pounds for any horizontal position of the coupler, without exceeding the yield points of the materials used. When yielding type of

coupler carrier is used, an auxiliary arrangement shall be provided that complies with these requirements.

(4) The outside end of each locomotive shall be provided with two main vertical members, one at each side of the diaphram opening; each main member shall have an ultimate shear value of not less than 300,000 pounds at a point even with the top of the underframe member to which it is attached. The attachment of these members at bottom shall be sufficient to develop their full shear value. If reinforcement is used to provide the shear value, the reinforcement shall have full value for a distance of 18 inches up from the underframe connection and then taper to a point approximately 30 inches above the underframe connection.

(5) The strength of the means of locking the truck to the body shall be at least the equivalent of an ultimate shear value of 250,000 pounds.

(b) MU locomotives built new after April 1, 1956 that are operated in trains having a total empty weight of less than 600,000 pounds shall have a body structure designed to meet or exceed the following minimum specifications:

(1) The body structure shall resist a minimum static end load of 400,000 pounds at the rear draft stops ahead of the bolster on the center line of draft, without developing any permanent deformation in any member of the body structure.

(2) An anti-climbing arrangement shall be applied at each end that is designed so that coupled locomotives under full compression shall mate in a manner that will resist one locomotive from climbing the other. This arrangement shall resist a vertical load of 75,000 pounds without exceeding the yield point of its various parts or its attachments to the body structure.

(3) The coupler carrier and its connections to the body structure shall be designed to resist a vertical downward thrust from the coupled shank of 75,000 pounds for any horizontal position of the coupler, without exceeding the yield points of the materials used. When a yielding type of coupler carrier is used, an auxiliary arrangement shall be provided that complies with these requirements.

(4) The outside end of each MU locomotive shall be provided with two main vertical members, one at each side of the diaphragm opening; each main member shall have an ultimate shear value of not less than 200,000 pounds at a point even with the top of the underframe member to which it is attached. The attachment of these members at bottom shall be sufficient to develop their full shear value, the reinforcement shall have full value for a distance of 18 inches up from the underframe connection and then taper to a point approximately 30 inches above the underframe connection.

(5) The strength of the means of locking the truck to the body shall be at least the equivalent of an ultimate shear value of 250,000 pounds.

BILLING CODE 4910-06-M

APPENDIX A - Form FRA 6180.49A

(FRONT)

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

LOCOMOTIVE INSPECTION AND REPAIR RECORD

In accordance with the Locomotive Inspection Act, 36 Stat. 913, as amended and the regulations issued pursuant to that Act, the parts and appurtenances of the locomotive unit here been inspected and all defects disclosed by the inspection here been properly repaired.

Reporting year 19____ Check if new loco. ☐ If loco. renumbered give previous no. ☐☐☐☐☐☐

1. OPERATED BY	RR CODE	2. OWNED BY (Railroad)	RR CODE

3. MODEL NO.	4. LOCO. NO.	5. YR. BUILT	6. PROPELLED BY	7. HORSEPOWER	8. TYPE OF SERVICE: PASSENGER ☐ ROAD ☐ SWITCH ☐ OTHER ☐

LAST PERIODIC INSPECTION: 9. NO. 10. DATE 11. PLACE

PERIODIC INSPECTIONS

12. INSP NO.	13. DATE MO DAY YR	14. PLACE	15. ITEM *	16. PERSON CONDUCTING	17. ITEM *	18. PERSON CONDUCTING	19. CERTIFIED BY

* ITEM CODES: [1] BRAKES [2] RUNNING GEAR [3] CAB. EQUIP. [4] ELECT. [5] MECH. [6] STEAM GEN. [7] SAFETY APPL.

TESTS

20. INSP. NO.	21. TYPE	22. FREQUENCY	23. AUTH. SEC. NO.	24. PERSON CONDUCTING	25. CERTIFIED BY	26. PREVIOUS TEST A. INSP. NO.	B. DATE	C. PLACE
	A. Meter Test	Not to exceed every 4th per. insp						
	B. Air Brake-1	Not to exceed every 4th per. insp						
	C. Insulation	Not to exceed every 4th per. insp	HIGH VOLTAGE RESISTANCE:					
	D. Hydro-hammer	Not to exceed every 8th per. insp	PRESSURE:					
	E. Air Brake-2	Not to exceed every 8th per. insp						
	F. Steam Gen.	As required	GEN. 1: SAFE PRESS.:		GEN. 2: SAFE PRESS.:			
	G. Loco Noise	As required	LOCATION:		TYPE:			
	H.							

Certification of true copy.
I certify that this is a true copy of the inspection and repair record of locomotive no _____

_____ _____
(Officer-in-charge) DATE

FOR FRA INSPECTOR'S USE ONLY

INSPR. NO. _____ DATE	INSPR. NO. DATE	INSPR. NO. DATE
INSPR. NO. DATE	INSPR. NO. DATE	INSPR. NO. DATE

ATTENTION: *A false entry on this form is punishable by fine or imprisonment (U.S. Code, Title 18, Sec. 1001).*

FORM FRA F6180-49 A (Rev.) OMB Approval No.

(BACK)

Instructions:

1. OPERATED BY: Enter the name and code* of the railroad primarily responsible for operating the locomotive at the time the report is placed in the locomotive. Operator changes, including dates, must be noted in "Remarks".

2. OWNER: Enter the name and code* of the owner. Changes in ownership must be submitted as final reports.

3. MODEL NO. Enter the original builder's model number.

4. LOCOMOTIVE NO. Enter only the locomotive number. Include letters only if they are part of the locomotive markings. If the locomotive number is changed, include information at the top of the form.

5. YEAR BUILT: Enter the year the locomotive was built or rebuilt.

6. PROPELLED BY: Enter diesel-electric, electric, etc.

7. HORSEPOWER: Enter horsepower rating.

8. TYPE OF SERVICE: Enter type of service the locomotive is assigned to when the report is placed in the locomotive.

9. LAST PERIODIC INSPECTION: This report covers the annual period (January 1 to December 31). The report shall be retained in the locomotive until the first periodic inspection is made after January 1 of each year or until the form is replaced as required by §229.23(f). When a new Form 6180.49A is placed in the locomotive, enter the last periodic inspection information onto the new form in items Nos. 9, 10, 11 and 26. Tests that are not required should be noted "Not Applicable" (NA).

12. INSPECTIONS: Persons making the required periodic inspections must sign for the items inspected. The employee's supervisor must certify that the inspections were completed.

20. TESTS: Enter under Item 20 the periodic inspection number of any test performed under Item No. 21. (If any test is performed at a time other than the periodic inspection, the inspection number in Item 20 shall be the number of the preceding periodic inspection. The carrier shall also put under "Remarks" the type of test, the actual date of the test, and the actual place of the test. The information on the actual date and place of the test under "Remarks" shall be included in items 26(b) and (c) of the next FRA Form 6180.49A).

ITEM 21(c): Enter test pressure.

ITEM 21(e): Enter steam generator number(s) and safe working pressure(s).

*Carriers are required to enter only the code assigned by FRA to their railroad.

REMARKS: The carrier should enter under "Remarks" any other clarifying or explanatory information.

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Monday
May 21, 1979

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Flexible Subsidy Program; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 219

[Docket No. R-79-658]

Flexible Subsidy Program; Interim Rule

AGENCY: Department of Housing and Urban Development.

ACTION: Interim Rule.

SUMMARY: This interim rule amends Title 24 of the Code of Federal Regulations by adding a new Part 219 to Chapter II. Part 219 establishes policies and procedures for implementing the Flexible Subsidy Program for troubled multifamily projects pursuant to Section 201 (Operating Assistance for Troubled Multifamily Housing Projects) of the Housing and Community Development Amendments of 1978. The goals of this program are to:

(1) Reduce claims on the Department's insurance funds by aiding projects in financial distress where existing sources of financial relief are inadequate to cure the problems and restore financial soundness; and (2) to preserve and protect the existing supply of low- and moderate-income housing by upgrading the quality of management services and effecting physical and financial improvements which will enable the project to become self-sustaining and assure the long-term economic operation of the project. Assistance payments under this program may be used to correct physical deficiencies resulting from deferral of regular maintenance, to reduce deficiencies in replacement reserve funds and to fund project operating deficits.

EFFECTIVE DATE: June 19, 1979.

COMMENTS DUE: July 20, 1979.

ADDRESS: Comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Fred W. Pfaender, Acting Director, Office of Multifamily Housing Management and Occupancy, Housing, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-5677.

SUPPLEMENTAL INFORMATION: The Flexible Subsidy Program was developed in response to the findings and recommendations of the Department's 1977/78 Task Force on Multifamily Property Utilization. The Task Force concluded that existing subsidies and loan servicing tools did not adequately address the full range of problems confronting multifamily projects. Under existing programs, the amount of subsidy is determined by factors other than total project needs (i.e., by the mortgage interest rate in the Section 236 and Section 221(d)(3) BMIR program and by tenant rent/income ratios in the Section 8, rent supplement, and RAP programs). Present subsidies do not provide lump sum cash payments for correction of deferred maintenance items that have accumulated because of the project's past inability to raise rents due to the low-income levels of the tenants. Tenants were already paying excessive percentages of their income for rent and tenant incomes were not increasing as rapidly as operating expenses. Similarly, present forms of financial relief (e.g., mortgage modifications, etc.) could not always generate assistance in the total amount or at the time it is needed.

Under the flexible Subsidy Program, the amount of assistance will be based upon an analysis of the project's total needs. Assistance payments may be used to correct physical deficiencies resulting from deferral of regular maintenance, to reduce deficiencies in replacement reserve funds and to fund operating deficits, thereby holding rents at a level which tenants can afford to pay with a reasonable percentage of their incomes. Contracts will be written for one-year periods and payments will be released at least quarterly. Because both the initial allocation and continued receipt of assistance will be conditioned upon the project owner's ability to provide for management satisfactory to HUD, the Flexible Subsidy Program should provide project owners with an incentive for continuing management improvements.

The Flexible Subsidy Program will provide a major tool for stabilizing conditions in existing subsidized housing projects by providing assistance to restore financial and physical soundness, to upgrade management and maintain their low and moderate income character. This program enables the Department to address the major problems of distressed projects which have been found to lead to mortgage defaults assignments and foreclosures. Because many projects will be stabilized under this program, the Department should realize significant savings to the insurance funds as a result of the reduction in the number of claims. Due to the identified need for this type of assistance, and the inadequacy of other available resources to address such need, HUD has determined that the public interest would be served by making these provisions effective on an interim basis. Publication as an interim rule is necessary to make the program operational within the time frames established by HUD in order to meet the Congressional objectives of Section 201 of the Housing and Urban Development Amendments of 1978 on an expedited basis.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The Finding on Inapplicability in accordance with HUD's environmental procedures (HUD Handbook 1390.1), is available for inspection at the Office of the Rules Docket Clerk, at the above address.

PART 219—FLEXIBLE SUBSIDY PROGRAM

Accordingly, a new Part 219 is added to read as follows:

Table of Contents

Authority: Sec. 201(g) of the Housing and Community Development Amendments of 1978, 12 U.S.C. 17152-1.

§219.101 Purpose.

The purposes of the Flexible Subsidy Program are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of management and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act of under the Housing and Urban Development Act of 1965.

§ 219.105 Eligible projects.

A rental or cooperative housing project is eligible for assistance only if the project:

(a) Is assisted under Section 236 or the proviso of Section 221(d)(5) of the National Housing Act, or under Section 101 of Housing and Urban Development Act of 1965, except that assistance may not be provided before October 1, 1979,

for any such projects which are not insured under the National Housing Act, or

(b) Met above criteria before acquisition by the Secretary and has been sold by the Secretary subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this part) which provides that the low- and moderate-income character of the project will be maintained; except that with respect to projects sold after October 1, 1978, assistance shall not exceed a three-year period.

§ 219.110 Conditions for approval.

(a) Assistance may not be made available unless it has been determined by the Secretary that:

(1) This assistance, when considered with other resources available to the project is necessary and will restore or maintain the financial soundness and maintain the low- and moderate-income character of the project. Other resources include but are not limited to modification agreements, owner contributions, Section 223 or 241 loan programs.

(2) This assistance will be less costly to the Federal Government over the useful life of the project than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) The project owner, together with the mortgagee in the case of projects not insured under the National Housing Act, has provided or agreed to provide assistance to the project in a manner as determined by the Secretary.

(4) The project is or can be reasonably made structurally sound, as determined from information resulting from an on-site inspection of the project;

(5) Project management is being conducted by persons who meet satisfactory levels of competency and experience as prescribed by the Secretary; and

(6) The project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project. The plan which has been approved by the Secretary shall include the following:

(i) A detailed maintenance schedule; (ii) a schedule for correcting past deficiencies in maintenance, repairs and replacements; (iii) a plan to upgrade the project to meet cost effective energy efficiency standards prescribed by the Secretary; (iv) a plan to improve financial and management control systems; (v) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (vi) a plan setting forth the specific controls and procedures which will result in a reduction in operating costs together with an estimate of the cost saving.

(b) The field office shall give funding priority to projects presently experiencing financial and management problems in which conditions can be stabilized by assistance under this part. To the extent that funds remain available, assistance may be provided to projects with potential problems which, on the basis of a financial and management analysis, appear to have a high probability of having such financial and management problems within approximately the next five years consistent with the requirements set forth in paragraph (a) of this section.

§ 219.115 Local government assurances.

Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that:

(a) the community in which the project is located is or will provde essential services to the project in keeping with the community's general level of these services;

(b) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(c) assistance to the project under this part would not be inconsistent with local plans and priorities.

§ 219.120 Use and amount of assistance.

Assistance shall be provided in any amount which the Secretary determines is consistent with the project's management-improvement and-operating plan, subject to the availability of funds appropriated by the Congress in annual appropriation acts. Assistance will not exceed the sum of:

(a) An amount determined by the Secretary to be necessary to correct project deficiencies existing at the beginning of the first year of assistance, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made. Any project deficiencies which require capital improvements are eligible for funding only if: (1) They are necessary to meet local building codes or to maintain the project in a decent, safe, and sanitary condition, and (2) such expenditure is necessary and the most efficient method to make the improvement.

(b) An amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, existing at the beginning of the first year of such assistance and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items; and

(c) An amount not greater than the amount by which the estimated operating expenses for the year of such assistance, exceeds the estimated revenues to be received by the project during such year.

§ 219.125 Estimating project revenue and operating expenses.

(a) Computing Estimated Project Revenue. The estimated revenues for any project with respect to any year shall be equal to the sum of:

(1) The estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary, without regard to whether the mortgagor has established and is collecting a basic rent in accordance with the formula set forth in Section 236(f)(1) of the National Housing Act;

(i) The estimated amount of rent to be expended by tenants, shall include: (A) The rent being paid or projected to be paid at the time project revenue is estimated, but at least 25 percent (or such lesser percentage as is provided under other Federal housing assistance programs in which such tenant is a participant) of the income of each such tenant, whichever is greater, or (B) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities, except that no amount shall be provided for any Section 236 tenant which is in excess of the fair market rental charge. The tenant contribution computation can be based on the most recent tenant income certification.

(ii) In computing the estimated amount of rent to be expended by tenants and the estimated amount of assistance payments to be made on behalf of such tenants, the Secretary may permit a vacancy allowance of not more than 6 percent of the estimated amount of such rent and payment computed, without

regard to such allowance, except that with respect to the first three years, in which assistance is provided to a project, the Secretary may permit such allowance for such project to exceed 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this part.

(2) The estimated amount of assistance payments to be made on behalf of such tenants during such year, other than assistance made under this part;

(3) The estimated amount of assistance payments to be made on behalf of the project owner under the proviso of Section 221(d)(5) or Section 236 during such year; and

(4) Other income attributable to the project as determined by the Secretary.

(b) Computing Estimated Project Operating Expenses. The estimated operating expenses of any project with respect to any year, shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and operating-plan for the project for such year, including but not limited to taxes, utilities, maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The estimated operating expenses may not include any return on the equity investment of the owner. In order to carry out the purposes of this program, in establishing a rental charge, there may be excluded from the cost of operating a project, an amount equivalent to the amount of assistance payments made for the project under this Part.

§ 219.130 Payment schedule.

Assistance payments shall be computed on an annual basis, payable at such intervals as prescribed by the Secretary, but at least quarterly, in an amount determined by the Secretary, except that the sum of such assistance payments for any year may not exceed the amount computed pursuant to § 219.120. At the time of the payments, the operations of the project shall be reviewed by the Secretary to determine that such operations are consistent with the management-improvement and-operating plan. Continued assistance shall be contingent upon satisfactory performance.

§ 219.135 Waivers.

Basic Provision. Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this part. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

(Sec. 201(g), Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1))

Issued at Washington, D.C., March 8, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

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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 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	MSPB*/OPM*		CSA	MSPB*/OPM*
	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 January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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

FEDERAL COMMUNICATIONS COMMISSION

FM broadcast stations, changes in table of assignments—

22740 4–17–79 / Yucca Valley, Calif.

22741 7–17–79 / Pinconning, Mich.

22741, 25231 4–17–79, 4–30–79 / Gouverneur and Ogdenburg, N.Y.

22078 4–13–79 / Anadarko, Okla. and Memphis, Tenn.

Television broadcast stations, changes in table of assignments—

22742, 22743 4–17–79 / Salem, Ore. and Tomah, Wisc.

FEDERAL RESERVE SYSTEM

23813 4–23–79 / Definition of creditor

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—

23515 4–20–79 / Debenture interest rates; retroactive to 1–1–79

TRANSPORTATION DEPARTMENT

Coast Guard—

23218 4–19–79 / Portland, Maine; drawbridge operations

Materials Transportation Bureau—

23225 4–19–79 / Shipment of hazardous materials by water

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing May 14, 1979

Just Released

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(Revised as of January 1, 1979)

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_____	Title 7—Agriculture (Parts 900 to 944)	$5.25	$_____
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_____	Title 7—Agriculture (Parts 2853 to End)	4.50	_____
_____	Title 7—Agriculture (Parts 1000 to 1059)	6.00	_____
_____	Title 16—Commercial Practices (Parts 150 to 999)	5.00	_____
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[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)]

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