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Monday
February 4, 1980

Highlights

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Rules and Regulations

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COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflation Price Standards; Standards for Financial Institutions; Correction

AGENCY: Council on Wage and Price Stability.

ACTION: Correction of Interim Final Standard for Financial Institutions for the Second Program Year.

SUMMARY: On January 8, 1980, the Council published an interim final price standard regarding financial institutions (6 CFR 705.50) for the second program year (45 FR 1817). The standard provides for a limitation on profits and, for institutions unable to comply with this restriction, a limitation on dividend payments and service charges. The limitation on dividend payments was expressed incorrectly and is, therefore, being corrected in advance of the close of the comment period.

DATES: The effective date for this correction is February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur Corazzini (202) 456–7730.

SUPPLEMENTARY INFORMATION: During the first program year, institutions subject to the limitation on dividend payments and service charges (6 CFR 705.50(a)(2)) were asked to limit dividends during the period March 15, 1979, through March 15, 1980, to 107 percent of dividends during the 12 months prior to March 15, 1979. The interim final standard published on January 8, 1980, was intended to continue the 107 percent growth limitation. As issued, the limitation was expressed incorrectly. With the correction issued today, the provision now limits dividend payments during the period from March 15, 1980, through the remainder of the second program year to 91 percent of the amount paid during the 12 months before March 15, 1979. The factor .91 was derived by multiplying $(1.07)^{\frac{2}{3}}$—the compounded 7 percent increase over two years—by .795, the fraction of a year represented by the period March 15, 1980, through December 31, 1980.

In paragraph (a)(2)(i) the word "repurchase" appeared as "purchase". The typographical error is now being corrected.

Issued in Washington, D.C., January 29, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, § 705.50 of Title 6 is revised as follows:

1. Paragraph (a)(2)(i) is revised to read as follows:

§ 705.50 Standard for financial institutions.

(a) * * *

(2) *Alternative Standard.* If the financial institution cannot comply with the standard in paragraph (a)(1) of this section, it should satisfy both the following conditions:

(i) It should limit cash dividends during the 12-month period beginning January 1, 1980, to no more than 107 percent of the dividends during the preceding 12-month period, or if subject to the alternative standard applicable during the first program year, it should limit cash dividends during the period March 15, 1980, through December 31, 1980, to no more than 91 percent of cash dividends paid during the 12-month period prior to March 15, 1979;

* * * * *

2. Paragraph (c)(4)(ii) is amended so that the phrase "agreements to purchase" in the first sentence is revised to read "agreements to repurchase."

[FR Doc. 80-3488 Filed 1-30-80; 9:20 am]

BILLING CODE 3175-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 590

[No. 80-59]

Federally Related Mortgage Loans; Preemption of State Usury Laws; Correction

January 29, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This change amends the Board's recent regulations on the preemption of State usury laws. It provides that with respect to application of preemption to individual co-op loans of cooperative housing organizations, preemption is to apply to all cooperative housing organizations, instead of only to non-profit cooperatives. There is no basis in the public law to limit co-op loans to non-profit cooperative associations.

EFFECTIVE DATE: December 28, 1979.

FOR FURTHER INFORMATION CONTACT: James C. Steward, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W. Washington, D.C. 20552 (202–377–6457).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 80–12, dated January 3, 1980 (45 FR 1853), January 9, 1980, adopted temporary regulations implementing section 105 of Pub. L. 96–161 concerning the Federal preemption of State usury laws. The statute permits preemption of State usury laws on loans secured by a first lien on stock in a residential cooperative housing corporation. In developing regulations to implement the statute the Board adopted the definition of a loan on an individual co-op unit from § 545.2a of its Federal regulations. That section limits loans by Federal associations on co-op units to such loans where the co-op organization is a non-profit organization. There is no basis in Pub. L. 96–161 to limit co-op loans to non-profit cooperative associations. Accordingly, the words "non-profit" are being deleted from the regulations.

As amended, § 590.2(b) reads as follows:

§ 590.2 Definitions.

For the purpose of this Part, the following definitions apply:

* * * * *

(b) "Loans, mortgages, or advances secured by first liens on stock in a residential cooperative housing corporation" means loans on the security of (1) a first security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, and (2) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 80-3616 Filed 2-1-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

(Airworthiness Docket No. 79-ASW-69; Amdt. 39-3681)

Bell Model 205A-1 Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires removal of aluminum rivets and installation of proper Monel rivets in a specific location of the two main beams of the fuselage on 293 Bell Model 205A-1 helicopters. The AD is prompted by the discovery of the installation of improper aluminum rivets in the fuselage main beams. The helicopter type design requires the use of Monel rivets and the structural integrity proven in the type design must be maintained to assure an adequate margin of safety.

DATES: Effective February 5, 1980. Compliance required prior to further flight after March 4, 1980.

ADDRESSES: A copy of the service bulletin may be obtained from Regional Counsel, Attention: Docket No. 79-ASW-69, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The applicable bulletins may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101, or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION: It has been discovered that 293 Bell Model 205A-1 helicopters may have improper aluminum rivets in the fuselage two main beams splice at WL 54 from station 127.5 to 154 as described in Bell Helicopter Textron Technical Bulletin No. 205-79-34. The type design data specified the installation of Monel rivets, P/N MS 206 15M. Reports concerning service problems or failures of these aluminum rivets have not been received; however, the helicopter type design requires the use of Monel rivets to assure an adequate margin of safety for continued airworthiness.

Since these helicopters are likely to have aluminum rivets where Monel rivets are necessary, an airworthiness directive is being issued that would require inspections for proper rivets and installation of proper Monel rivets, if necessary, in the noted area of the fuselage main beams splice on certain Bell Model 205A-1 helicopters.

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

Adoption of the Amendment

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

§ 39.13 [Amended]

Bell: Applies to Bell Model 205A-1 helicopters, S/N 30001 through 30287 and S/N 30289 through 30296, certificated in all categories.

Compliance required prior to further flight after March 4, 1980, unless already accomplished.

To assure fuselage structural integrity by installing Monel rivets in the fuselage main beams splice, in place of improper aluminum rivets, accomplish the following:

a. Inspect and replace, as necessary, rivets (33 each) in the right and left main beam splice (BL14), WL54 from station 127.5 to 154 as specified in Bell Helicopter Textron Technical Bulletin No. 205-79-34.

b. Equivalent means of compliance with this AD may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region.

c. The helicopters may be flown in accordance with FAR 21.197 to a base where inspections and repairs can be performed.

(Sections 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)); 14 CFR 11.89).

Issued in Fort Worth, Texas, on January 21, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-3197 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-EA-54; Amdt. 39-3682]

DeHavilland; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises and redesignates AD 79-10-07, applicable to DeHavilland DHC-6 type airplanes which required periodic inspections of the flap control rod tubes and replacement where necessary. Additional cracked tubes have resulted in the manufacturer's requiring shorter inspection intervals and improved replacement parts. The control rods affect the safety of flight. Therefore, AD 79-10-07 is being amended and renumbered to accommodate the safer restrictions.

EFFECTIVE DATE: February 7, 1980. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: In view of the continuing air safety problem, notice and public procedure hereon are impractical, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by revising and redesignating AD 79-10-07, as follows:

§ 39.13 [Amended]

DeHavilland: Applies to all DHC–6 model airplanes, certificated in all categories.

To prevent possible asymmetric failure of the flap system due to cracking in the flap control rod tubes, accomplish the following:

1. On aircraft Serial Numbers 1 thru 427, within the next 20 hours in service or 30 days, whichever occurs first, after the effective date of this AD, unless previously accomplished within the last 180 hours in service or 60 days, whichever occurred last, visually inspect the tube ends of the rod assemblies P/N's C6CW 1029–1, C6CW 1051–1 or C6CW 1024–1, and C6CF 1085–1 or –3, with a dye penetrant method using at least a ten power glass. [See *WARNING* on page 4 of DeHavilland Service Bulletin 6/388, paragraph 4. and paragraphs 5. and 6. of ACCOMPLISHMENT INSTRUCTIONS.]

2. If cracks are found, the rod assembly must be replaced before further flight with rods of the same part number or equivalent inspected and found serviceable in accordance with paragraph 1; or with new rods with the same part number or equivalent; or with new Post-Mod 6/1487 rods, incorporating EO 66818; or Mod 6/1710 and 6/1714 whose part numbers are listed in DeHavilland Service Bulletin No. 6/388, Table I.

3. If cracks are not found, repeat inspection in paragraph 1. within 200 hours in service or 90 days, whichever occurs first, and install flap control rod sleeves in accordance with Service Bulletin 6/388, ACCOMPLISHMENT INSTRUCTIONS, or approved equivalent. Following the installation of sleeves, visually inspect using at least a ten power glass, in accordance with Service Bulletin 6/388, Page 9, Figure 1, at intervals not to exceed 400 hours in service or 90 days, whichever occurs first.

4. On aircraft Serial Numbers 1 thru 427, within 1600 hours in service or two years, whichever occurs first, from the effective date of this AD, unless previously accomplished, replace flap control rods listed in column entitled "Pre-Mod 6/1487" with the appropriate rods from the columns entitled "Retrofit Post-Mod 6/1487 Incorp. Mod 6/1710 and 6/1714" or "Post-Mod 6/1710 and 6/1714, New Product Rods", in Service Bulletin 6/388, Table 1. Following the replacement, inspect in accordance with requirements in paragraph 6.

5. On aircraft Serial Numbers 428 thru 656 and aircraft Serial Numbers 1 thru 427 incorporating Post-Mod 6/1487 control rods, inspect rod ends in accordance with method in paragraph 1. and accomplish Mod 6/1710 and 6/1714 in accordance with Service Bulletin 6/388 ACCOMPLISHMENT INSTRUCTIONS, or approved equivalent, no later than 800 hours in service or one year, whichever occurs first, from the last inspection. Following the modifications, inspect in accordance with requirements in paragraph 6.

6. On aircraft Serial Number 657 and subsequent, visually inspect control rods using at least a ten power glass, in accordance with Service Bulletin 6/388, Page 9, Figure 1, at intervals not to exceed 800 hours in service or one year, whichever occurs first.

7. Report positive findings, including crack length, from any of the above inspections, to the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, within 10 days of inspection. (Reporting approved by Office of Management and Budget under OMB No. 04–R0174).

8. Equivalent parts and procedures must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

9. Compliance times may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, upon receipt of substantiating data submitted through an FAA Maintenance Inspector.

Note.—DeHavilland Service Bulletin 6/388, can be referred to for Inspection and Replacement Instructions pertaining to this subject.

This Directive supersedes Airworthiness Directive 79–10–07.

Effective Date: This amendment is effective February 7, 1980.

(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 Jamaica, New York, on January 24, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80–3198 Filed 2–1–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 80–GL–2–AD; Amdt. 39–3683]

General Electric Company CF6–6 Stage 2 High Pressure Turbine Disk; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires mandatory retirement of the CF6–6 Stage 2 high pressure turbine disk. This AD is being issued as a result of extensive analytical and experimental investigations by the manufacturer that showed the low cycle fatigue life was substantially lower than that previously thought. A disk failure such as this would be uncontained and failure in flight will result in a safety-of-flight condition.

DATES: Effective—February 8, 1980. Compliance schedule—As prescribed in body of AD.

ADDRESSES: Copies of applicable General Electic CF6–6 Service Bulletins (Service Bulletin 72–761 issued November 28, 1979) may be obtained by contacting General Electric Company, Cincinnati, Ohio 45215. Copies of the service information referenced in this AD are contained in the Rules Docket, Office of Regional Counsel, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Cornelius Biemond, Engineering and Manufacturing Branch, AGL–217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 460.

SUPPLEMENTARY INFORMATION: The General Electric Company has recently completed a life validation program which updated the stress and life analysis for all the critical areas on the Stage 2 HPT disk. Extensive testing was conducted by the General Electric Company to establish the basic fatigue properties of the material at room and elevated temperature, the stress concentrations due to the geometrical constraints imposed upon the disk, and the temperature induced stresses. The usage for this particular component was re-evaluated, and further analyses and tests showed that the calculation procedure for determination of component life was valid. The results of this effort indicate that the manual limit for the low cycle fatigue life should be reduced from 14,500 cycles to 8,500 cycles. This conclusion is based upon analytical results modified by test, experience and field inspection results.

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

Adoption of the Amendment

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

§ 39.13 [Amended]

General Electric. Applies to General Electric CF6–6 series engines, Stage 2 HPT disks, Part Numbers 9083M48P01, 9084M52P02, 9084M52P05, 9137M15P01, and 9137M15P02. Compliance is required as indicated. To preclude disk failure due to fatigue, these disks are to be removed from service as follows:

(a) All disks, except those noted in (c) below, which have more than 8400 cycles on the effective date of this AD are to be removed from service within 100 cycles.

(b) All disks, except those noted in (c) below, which have less than 8400 cycles are to be removed before they accrue 8500 cycles.

(c) Those disks, P/N 9137M15P02, with Serial Numbers MP036073, MP030786, MP030797, MP035005, and RP024722 because of their refurbishment schedule shall be removed from service before they accrue 8800 cycles.

(d) Other disks than those identified in (c) above may be allowed additional cycles on an individual basis when approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region.

CF6-6 Service Bulletin 72-761 dated November 28, 1979 also applies to this subject.

This amendment becomes effective on February 8, 1980.

(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)); 14 CFR 11.89)

Note.—Due to the emergency nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In accordance with the DOT guidelines, a regulatory evaluation is being prepared and will be placed in the public docket for this action.

Issued in Des Plaines, Illinois on January 24, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-3199 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-WE-37-AD; Amdt. 39-3684]

Airworthiness Directives; McDonnell Douglas DC-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive which provides for inspection for adequacy of fuel drainage, inspection for fuel leakage, and eventual installation of a baffle in the APU exhaust mainfold on certain McDonnell Douglas DC-9 series airplanes. This AD is required to prevent the fire hazard caused by possible accumulation of fuel from APU "false-starts" on lower aft fuselage inner surface.

DATES: Effective February 11, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Aircraft Company, Customer Service Department, 3855 Lakewood Boulevard, Long Beach, California 90846. 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 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: There have been a number of instances of fuel leaking into the aft fuselage area on McDonnell Douglas DC-9 series airplanes resulting in a fire condition.

Investigation has revealed that, after repeated APU false-starts, excessive fuel has seeped through the APU exhaust shroud expansion joint into the tail compartment on DC-9 aircraft not incorporating a baffle in the APU exhaust shroud joint.

In one incident, shortly after parking the aircraft at the gate, there was an APU Fire Warning and Shutdown followed by a No. 2 engine fire warning. Ground personnel noticed flame exiting from an access door in the aft fuselage area and extinguished the fire with a portable extinguisher. This fire resulted in extensive electrical harness damage in the right side of the tail compartment, and was apparently caused by the fuel leakage due to an APU false-start with a resulting Engine No. 2 and APU false fire warning, caused by circuit damage.

In another case, the aircraft was at the gate with APU running. Smoke was noticed from the right side of the fuselage through the aft fuselage access door. Considerable fire damage in the aft fuselage tail section area, near the APU exhaust shroud, was found.

The manufacturer, Douglas Aircraft Co., has issued a Service Bulletin 49-25 which details the procedure for installation of a baffle in the exhaust system to prevent this fuel leaking into the tail compartment.

Since the condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires repetitive aft fuselage inspections until the service bulletin is incorporated.

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

Adoption of the Amendment

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9, Series 10, 20, 30, 40, and 50 airplanes and Military C-9 series airplanes certificated in all categories, not incorporating McDonnell Douglas Service Bulletin 49-25 dated November 10, 1973 or the production equivalent of this service bulletin.

To prevent fire hazard caused by possible accumulation of fuel from APU false-starts collecting on lower aft fuselage inner surface, accomplish the following:

(a) Within the next 100 hours' time in service from the effective date of this AD unless already accomplished within the last 150 hours' time in service, and thereafter intervals not to exceed 250 hours' time in service from the last inspection, accomplish the following:

(1) Verify that the area adjacent to and above the fuselage drain hole located after the pressure bulkhead at the 5 o'clock position is clear of debris and an open drain path is evident. Clean if necessary to remove debris; insure that the lower edge of the aft pressure bulkhead insulation blanket does not obstruct the drainhole, and

(2) Check tail compartment for any spilled fuel and clean before starting APU.

(b) Within 100 hours' time in service from the effective date of this AD:

(1) Record in the aircraft logbook all occurrences of APU false starts.

(2) Prior to restart attempt after false start occurrence, check for open drain hole at 5 o'clock position and check for any fuel spills in the aft compartment and clean before restart attempt.

(3) Install placard in cockpit and revise AFM to read, "Do not attempt to restart APU after a false start until check of drain and AFT fuselage has been accomplished."

The checks required by paragraph (b)(2) of this AD may be performed by the flight crew.

Note.—A maintenance record entry showing compliance and method of compliance with this AD is required by FAR 91.173 and FAR 121.380.

(c) Within one year's time in service from the effective date of this AD, unless already accomplished, incorporate the APU exhaust system modification consisting of a baffle on the exhaust duct assembly which diverts residual fuel away from the expansion joint, per McDonnell Douglas Service Bulletin 49-25, dated November 10, 1973.

(d) 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, modifications or repairs required by this AD.

(e) 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.

This amendment becomes effective February 11, 1980.

(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 January 25, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-3493 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-2-AD; Amdt. 39-3685]

Airworthiness Directives; Rockwell International NA-265 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection of elevator trailing edges for delamination and installation of drain holes. The AD is prompted by rain entrapment tests which indicate the possibility of trapping water in the elevators, which could result in elevator buffet, and elevator trailing edge delamination.

DATES: Effective February 11, 1980. Compliance schedule: Initial compliance required within 15 hours' time in service, or ten days from the effective date of this AD, whichever occurs sooner.

ADDRESSES: The applicable service information may be obtained from: Rockwell International, Sabreliner Division, 827 Lapham Street, El Segundo, California 90245.

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 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: The FAA has determined that elevator trailing edge delamination has occurred in some Rockwell International Model NA-265-70 and NA-265-80 airplanes. This delamination may be initiated by water entrapment in the elevator. Tests of water entrapment, conducted by the manufacturer, reveal that a water quantity sufficient to produce a moment of 2.72 inch-pounds trailing edge down may be trapped. Should this problem go uncorrected, delamination of the elevator trailing edge and/or elevator unbalance possibly contributing to elevator buffet may occur.

Since this condition is likely to exist in other airplanes of the same type design, an airworthiness directive is being issued which requires the installation of drain holes in the elevator trailing edge, correction of delaminations discovered by the inspections required per this AD and elevator re-balancing which will increase the static balance.

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

Adoption of the Amendment

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

Rockwell International: Applies to Model NA-265-70 and NA-265-80 Series airplanes certificated in all categories. Compliance required as indicated, unless already accomplished. To prevent elevator trailing edge delamination, accomplish the following:

(a) Within 15 hours' time in service or 10 days from the effective date of this AD, whichever occurs first, inspect elevator trailing edge for delamination as specified in paragraph 7, "Modification Instructions" of Rockwell International, Sabreliner Division, Service Bulletin No. 43 dated September 14, 1979.

(b) If evidence of delamination is found, prior to further flight, accomplish paragraph (d) of this AD.

(c) If no evidence of delamination is found, prior to the accumulation of 300 additional hours' time in service or 90 days from the effective date of this AD, whichever occurs first, accomplish paragraph (d) of this AD.

(d) Repair any delamination, enlarge existing 25 drain holes and add 75 drain holes as specified in "Modification Instructions" of Service Bulletin No. 43, and add elevator balance weights and accomplish static balance check as specified in Rockwell International, Sabreliner Division, Service Bulletin No. 44 dated September 14, 1979.

(e) 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.

(f) 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 required by this AD.

This amendment becomes effective February 11, 1980.

(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 January 25, 1980.

W. R. Frehse,

Acting Director, FAA Western Region.

[FR Doc. 80-3494 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 79-SO-78]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Special Use Airspace; Rescission of Final Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Rescission of final rule.

SUMMARY: This action rescinds amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) specified in Airspace Docket No. 79-SO-78, which designated temporary restricted area airspace in the vicinity of Camp Lejeune, N.C., and was to be effective March 20, 1980. Because of cancellation of the planned joint military readiness exercise, the restricted areas are no longer required.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, 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:

History

On January 28, 1980, the FAA amended Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate as temporary controlled and special use airspace, areas identified as R-5316A, R-5316B, R-5316C, R-5316D, R-5316E, R-5316F, R-5316G and R-5316H to contain a major joint military readiness exercise.

Because of a change in operational requirements and in the interest of national defense, it was necessary to cancel the scheduled exercise. Accordingly, the designated temporary restricted area airspace is no longer required and I find the notice of proposed rulemaking is unnecessary and this rescission may be made effective in less than 30 days after publication. This rescission does not preclude future action of a similar nature concerning designation of temporary restricted area airspace.

Rescission of Final Rule

Accordingly, pursuant to the authority delegated to me by the Administrator, the amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) specified in Airspace Docket No. 79-SO-78 and published in the **Federal Register** (45 FR 6360) on January 28, 1980, which designated as temporary controlled and special use airspace the areas identified as R-5316A, R-5316B, R-5316C, R-5316D, R-5316E, R-5316F, R-5316G and R-5316H are rescinded effective upon publication in the **Federal Register.**

(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 January 30, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-3615 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 135

[Docket No. 20011; Amdt. No. 135-3]

Air Taxi Operators and Commercial Operators; Commuter Pilot in Command Operating Experience Requirements

Note.—This document originally appeared in the **Federal Register** for Friday, February 1, 1980. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Agency.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires that each commuter air carrier pilot meet increased operating experience levels before serving as a pilot in command. The intended effect is to upgrade the amount of pilot experience in the aircraft being flown in order to achieve a higher level of safety. The necessity for this amendment is indicated by recent fatal commuter accidents involving pilots with low pilot time in the aircraft being operated.

DATES: Effective Date: March 1, 1980.
Comments by: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McCorvey, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 20011, 800 Independence Avenue SW., Washington, D.C. 20591; or be delivered in duplicate to: Room 916, 800 Independence Ave. SW., Washington, D.C. 20591. Comments delivered must be marked "Docket No. 20011." Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 1978, the FAA issued an extensive set of new and revised Part 135 regulations governing commuter air carriers and on-demand air taxi operators. These were published in the **Federal Register** on October 10, 1978 (43 FR 46783; Docket No. 16097). These regulations had two basic premises. First, operating experience over a representative number of years established the need to generally upgrade the requirements of Part 135. Second, in the light of airline economic deregulation legislative proposals which were progressing through Congress in 1977 and 1978, it was contemplated that the air taxi industry generally, and especially its commuter air carrier segment, would be called upon under deregulation to provide even more air transportation services than that rapidly growing air transportation component had furnished prior to 1977. It was expected that under economic deregulation, large air carriers would pull out of small markets and that in many cases commuter air carriers would step in and shoulder the job of providing air transportation.

Accordingly, in the development of revised Part 135, the agency placed heavy emphasis upon upgraded requirements for commuter air carriers. These requirements were constructed in the regulations by making some provisions explicitly applicable to commuter air carrier operations while others were made applicable to those aircraft customarily found in commuter operations.

Congress likewise recognized the increased role that commuter air carriers would be called upon to assume under deregulation when it passed the Airline Deregulation Act of 1978 on October 24, 1978 (Pub. L. 95-504). In that Act, Congress required the FAA to establish regulations which, to the maximum feasible extent, provide a level of safety to passengers traveling on commuter air carriers equivalent to that afforded passengers traveling on certificated carriers. Congress also charged the agency with the duty to periodically assess the pertinent safety achievements and report to the Congress. The agency had already recognized the need for a continuing review of Part 135 safety regulations when it noted in the preamble to revised Part 135 that a review of those regulations would be announced early in 1980.

The foresight and wisdom of Congress and the agency in planning for deregulation has been established. Commuter air carriers have enjoyed remarkable growth in the slightly more than 1 year since the Airline Deregulation Act was passed and, in general, that industry has responded well to the challenges.

Need for This Regulatory Change

During 1979 there have been 13 fatal accidents in commuter air carrier operations, several of which involved multiple fatalities.

The FAA has analyzed these accidents with the goal of identifying adverse trends and determining how these trends can be stopped. This analysis shows that there were significant numbers of single pilot operations where the pilot was not able to cope with an abnormal or emergency situation arising during the takeoff or early phase of flight. Further analysis reveals that the single pilot, although possessing significant experience in multiengine airplanes, had a low experience level in the specific make or model being operated at the time of the accident. For example, in a March 1, 1979, accident which killed the pilot and

all seven passengers, the pilot was engaged in his first flight in the particular make and model being flown, although he did have 15 hours in a virtually identical make and model of airplane. In an accident on August 9, 1979, resulting in three fatalities, the single pilot had 30 hours in the make and model. In an October 8, 1979, accident which killed all eight persons on the airplane, the single pilot had 28 hours in the make and model, which included 20 hours line operating experience and a flight check with the company check pilot. However, the check pilot did not cover emergency procedures on the flight check. The FAA withdrew the check pilot's authorization on account of this deficiency. Finally, on November 2, 1979, the pilot and 5 passengers were killed in a commuter air carrier accident. Although the pilot had a total of approximately 10,000 total hours, he had only 2 hours in the make and model used on the fatal flight.

These accidents and general operating experience show that extensive total time or multiengine time do not establish that a pilot in command can safely operate a particular make and model of aircraft. Accordingly, there is a compelling need to establish minimum operating experience requirements which must be met before a pilot may be designated to serve as pilot in command on a commuter air carrier passenger-carrying flight. Moreover, although the single pilot operations accidents which have occurred were in VFR conditions, they indicate pilot deficiencies which have serious implications in operations under the greater demands imposed in IFR conditions where a single pilot operation is conducted with an autopilot in lieu of a second in command. If abnormal or emergency situations similar to those which occurred in the accidents discussed above were to occur under IFR conditions, the single pilot with a low level of experience in the make and model would be faced not only with handling the specific problem, but also with operating the aircraft under IFR conditions. Low levels of experience in the make and model of aircraft flown present an unacceptable safety risk in this latter type of situation also. The FAA recognizes that this amendment may have an economic impact on the affected certificate holders; however, the safety consideration, set forth above, requires its adoption.

The Amendment

These amendments will require two things. First, certain minimum levels of operating experience in the make and model of aircraft as a pilot in command under the supervision of a qualified check pilot must be acquired before a person may be designated to serve as a pilot in command in any commuter air carrier passenger carrying operation. The number of hours ranges from 10 for a relatively simple single-engine piston aircraft to 25 for a complex, high performance turbojet airplane. The operating experience requirement is similar in many respects to that required of pilots of large, certificated carriers in § 121.434. Thus, this change follows the mandate of the Airline Deregulation Act of 1978.

Second, with respect to the single pilot autopilot operation, before a person can serve as a pilot in command of a commuter air carrier passenger flight, that person must have logged not less than 100 hours in the make and model of aircraft to be flown and have met all other pertinent requirements of Part 135. This change would ensure that a pilot has aircraft familiarity and proficiency sufficient to adequately cope with situations such as those encountered in the single pilot accidents discussed above if those or similar situations occur under IFR conditions.

Persons designated prior to the effective date of this amendment as pilot in command on the make and model of aircraft to be flown are not subject to the operating experience requirement. The 100-hour requirement under § 135.105 applies to all pilots in command, including those designated as pilot in command prior to the effective date of this amendment. The 100 hours may be obtained in operations under VFR conditions or in operations governed by Part 91, or it may have been accumulated in operations under this part prior to the effective date of this amendment.

Need for Immediate Adoption

In view of the number and nature of recent commuter air carrier accidents, there is an urgent need for effecting these amendments as soon as possible. Accordingly, I find that notice and public procedure are impracticable and contrary to the public interest. However, interested persons are invited to submit such comments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date for comments specified above will be considered by the Administrator and these amendments 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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 20011." The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended effective March 1, 1980, as follows:

1. By adding a new section 135.244 to Part 135 of Subchapter G as follows:

§ 135.244 Operating experience.

(a) No certificate holder may use any person, nor may any person serve, as a pilot in command of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations, unless that person has completed, prior to designation as pilot in command, on that make and model aircraft and in that crewmember position, the following operating experience in each make and model of aircraft to be flown:

(1) Aircraft, single engine—10 hours.

(2) Aircraft multiengine, reciprocating engine-powered—15 hours.

(3) Aircraft multiengine, turbine engine-powered—20 hours.

(4) Airplane, turbojet-powered—25 hours.

(b) In acquiring the operating experience, each person must comply with the following:

(1) The operating experience must be acquired after satisfactory completion of the appropriate ground and flight training for the aircraft and crewmember position. Approved provisions for the operating experience must be included in the certificate holder's training program.

(2) The experience must be acquired in flight during operations under this part. However, in the case of an aircraft not previously used by the certificate holder in operations under this part, operating experience acquired in the aircraft during proving flights or ferry flights may be used to meet this requirement.

(3) Each person must acquire the operating experience while performing the duties of a pilot in command under the supervision of a qualified check pilot.

(4) The hours of operating experience may be reduced to not less than 50 percent of the hours required by this

section by the substitution of one additional takeoff and landing for each hour of flight.

2. By amending § 135.105 by revising paragraph (a) to read as follows:

§ 135.105 Exception to second in command requirement: approval for use of autopilot system.

(a) Except as provided in §§ 135.99 and 135.111, unless two pilots are required by this chapter for operations under VFR, a person may operate an aircraft without a second in command, if it is equipped with an operative approved autopilot system and the use of that system is authorized by appropriate operations specifications. No certificate holder may use any person, nor may any person serve, as a pilot in command under this section of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations unless that person has at least 100 hours pilot in command flight time in the make and model of aircraft to be flown and has met all other applicable requirements of this part.

* * * * *

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421 and 1424); sec. 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)).)

Note.—The Federal Aviation Administration 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). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, D.C., on January 30, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-3574 Filed 1-31-80; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 297

[Docket 35568; Regulation ER-1159A]

Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations; Approval by the General Accounting Office

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the reporting requirements contained in Part 297 of the Board's Economic Regulations (ER-1159, 44 FR 69633, December 4, 1979). This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated January 23, 1980.

DATES: Adopted: January 29, 1980. Effective: January 29, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6044.

SUPPLEMENTARY INFORMATION: ER-1159 provided that the effectiveness of sections 297.20 and 297.40 was delayed for GAO approval.

The reporting requirements contained in section 297.20 (CAB Form 297A) have been approved by the U.S. General Accounting Office under B-180226 (RO662). The reporting requirements contained in section 297.40 (CAB Form 296R) were previously approved by the U.S. General Accounting Office under B-180226 (RO586), and no further approval was necessary.

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324).

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3625 Filed 2-1-80; 8:45 am]

BILLING CODE 6320-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; 706 Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of one State and Local Fair Employment Practices Agency so that it may handle employment discrimination charges within its jurisdiction, filed with the Commission.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, telephone 202-634-6040, Equal Employment Opportunity Commission (State and Local), 2401 E Street, NW, Washington, DC 20506.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.74(a) effectuates the designation of the following agency as a 706-Agency:

Wisconsin State Personnel Commission [1]

Notice of proposed designation was published in the November 30, 1979 issue of the **Federal Register**, "44 FR 68858" with notice that written comments must have been filed with the Commission on or before December 15, 1979.

The Commission received no comments within the prescribed period for filing written comments regarding the proposed designation of the above agency. With the addition of the above mentioned agency, 29 CFR § 1601.74(a) and (b) are amended and published as follows:

§ 1601.74 Designated and notice agencies.

(a) The designated 706 agencies are:

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Division
California Fair Employment Practices Commission
Charleston (W.Va.) Human Rights Commission
Clearwater (Fla.) Office of Community Relations
Colorado Civil Rights Commission
Colorado State Personnel Board
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission on Human Rights and Opportunity
Corpus Christi (Tex.) Human Relations Commission
Dade County (Fla.) Fair Housing and Employment Commission
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Ind.) Human Relations Commission
Evansville (Ind.) Human Relations Commission
Fairfax County (Va.) Human Rights Commission
Florida Commission on Human Relations

[1] The Wisconsin State Personnel Commission is being designated as a 706 Agency for all charges covering the employment practices of the agencies of the State of Wisconsin except those charges alleging retaliation under 704(a) of Title VII. Accordingly, for retaliation charges, it shall be deemed a Notice Agency pursuant to 29 CFR 1601.71(3).

Fort Wayne (Ind.) Metropolitan Human Relations Commission
Fort Worth (Tex.) Human Relations Commission
Gary (Ind.) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Md.) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Idaho Commission on Human Rights
Illinois Fair Employment Practices Commission
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Jacksonville (Fla.) Community Relations Commission
Kansas Commission on Human Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Ky.) Urban County Human Rights Commission
Lincoln (Neb.) Commission on Human Rights
Madison (Wi.) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Mn.) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Md.) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Jersey Division on Civil Rights, Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (N.Y.) Commission on Human Rights
New York State Division on Human Rights
North Dakota Department of Labor
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Neb.) Human Relations Department
Oregon Bureau of Labor
Orlando (Fla.) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pa.) Commission on Human Relations
Pittsburgh (Pa.) Commission on Human Relations
Prince George's County (Md.) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Md.) Human Rights Commission
St. Louis (Mo.) Civil Rights Enforcement Agency
St. Paul (Mn.) Department of Human Rights
St. Petersburg (Fla.) Office of Human Rights
Seattle (Wa.) Human Rights Commission
Sioux Falls (S.D.) Human Relations Commission
South Bend (Ind.) Human Rights Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Oh.) Human Relations Department
Tacoma (Wa.) Human Rights Commission
Tennessee Commission for Human Development
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Virgin Islands Department of Labor
Washington Human Rights Commission
West Virginia Human Rights Commission
Wheeling (W. Va.) Human Rights Commission
Wichita (Ks.) Commission Civil Rights
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
Wisconsin State Personnel Commission
Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources
Ohio Director of Industrial Relations
Raleigh (N.C.) Human Resources Department, Civil Rights Unit

(Sec. 713 (a) 78 Stat. 265 (42 U.S.C. 20003-12(a)).

Signed at Washington, D.C. this 30th day of January, 1980.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc 80-3588 Filed 2-1-80; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD5-80-OIR]

Chesapeake Bay, Hampton Roads Intracoastal Waterway, Deep Creek, Va.; Safety Zone Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's safety zone regulations establishes a safety zone in the Southern Branch of the Elizabeth River, Norfolk, Virginia bounded by a line beginning at 36-45-31.5N latitude 76-17-46.5W longitude thence to 36-45-31.5N latitude 76-18-01W longitude thence to 36-45-24N latitude 76-17-54.4W longitude thence to 36-45-24N latitude 76-17-14W longitude thence along the shoreline to the point of the beginning for all waterborne traffic. The Coast Guard has determined this safety zone is required to safeguard persons from injury when the Norfolk Dredging Company, Norfolk, Virginia conducts cable laying operations adjacent to the I-64 Bascule Bridge, Southern Branch of the Elizabeth River, Norfolk, Virginia commencing at 7:00 A.M. 4 February 1980. Waterborne traffic will be prohibited from entering or remaining in this safety zone without authorization from the Captain of the Port, Hampton Roads, Virginia.

EFFECTIVE DATE: This amendment is effective beginning at 7:00 A.M. 4 February 1980 and terminating at 7:00 A.M. 6 February 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. F. Hirsh III, Chief, Port Operations Department, USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510, Tel: (804) 441-3298, FTS: 827-3298.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rule making, and this amendment is effective in less than 30 days from the date of publication because public procedures on this amendment are impractical due to the insufficient time until the cable laying operations commence. A draft evaluation of this action has been prepared in accordance wtih DOT Notice 78-1, improving Government regulations, and is available for inspection with the public docket at USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510.

DRAFTING INFORMATION: The principal person involved in the drafting of this rule is Lieutenant Commander H. F. Hirsh III, Chief, Port Operations Department, USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510. The project attorney is Lieutenant Mark Goodwin, c/o Commander, Fifth Coast Guard District (dl), Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

In consideration of the above, Part 165, of Title 33, Code of Federal Regulations, is amended by adding a new § 165.522 to read as follows:

§ 165.522. Hampton Roads, Elizabeth River, Norfolk, Virginia.

The area enclosed by the following boundary is a safety zone: A line beginning at 36-45-31.5N latitude 76-17-46.5W longitude thence to 36-45-31.5N latitude 76-18-01W longtitude thence to 36-45-24N latitude 76-17-54.4W longitude thence to 36-45-24N latitude 76-17-14W longitude thence along the shoreline to the point of the beginning. This safety zone will be effective from 7:00 A.M. 4 February 1980 until 7:00 A.M. 6 February 1980.

(192 Stat. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4))

Dated: January 22, 1980.

C. R. Thompson,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 80-3643 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 183

[CGD 76-082]

Ventilation Safety Standards for Recreational Boats

AGENCY: Coast Guard, DOT.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 79-38640 appearing at page 73025 in the **Federal Register** of December 17, 1979, paragraph 183.630(a) is corrected by deleting "a" after the word "having", and paragraph 183.630(a)(1) is corrected by adding "A" to precede the word "supply".

FOR FURTHER INFORMATION CONTACT: Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Department of Transportation, Washington, D.C. 20593 (202/426-4027).

Dated: January 30, 1980.

B. E. Thompson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 80-3641 Filed 2-1-80; 8:45 am]

BILLING Code 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL 1384-3]

Nevada Plan Revision: Air Quality Control Region Redesignation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency takes final action to approve the redesignation of the Nevada portion (Clark County) of the Clark-Mohave Interstate Air Quality Control Region (AQCR) as an intrastate AQCR. On March 23, 1979, under section 107(e) of the Clean Air Act, as amended, the redesignation was submitted for EPA approval by the Governor of Nevada. The intended effect of this redesignation is to improve management of the air resources in southern Nevada and to be consistent with and in support of a redesignation action by the Governor of Arizona.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

Under section 107 of the Clean Air Act, as amended, the Clark-Mohave Interstate AQCR was designated by the Administrator. This AQCR is described in 40 CFR 81.80 as including all of Clark County, Nevada, and Mohave and Yuma Counties, Arizona.

The Governor of Arizona, in a letter dated January 26, 1979, requested that the AQCR's in Arizona be redesignated to conform to the boundaries of the Arizona Planning Districts. This request included the redesignation of the Clark-Mohave Interstate AQCR to an intrastate AQCR consisting of Mohave and Yuma Counties. With the exception of the Clark-Mohave Interstate AQCR, the EPA will address the Arizona redesignations in a separate **Federal Register** notice.

Clark County Redesignation

In a letter dated March 23, 1979, the Governor of Nevada requested the EPA's approval of his redesignation of the Nevada portion (Clark County) of the Clark-Mohave Interstate AQCR as an intrastate AQCR.

As stated by Governor List, the redesignation will further improve management of the air resources in southern Nevada. The Governor also states that the provisions of section 126 of the Clean Air Act are adequate to protect the citizens of each state from air pollution from new sources located in the other state. Thus the redesignation of Clark County as an intrastate AQCR is expected to have no adverse effect upon interstate air pollution within the present Clark-Mohave Interstate AQCR.

Effects of Redesignation

As a result of this redesignation, minor revisions are being made to the *Code of Federal Regulations* (CFR). In 40 CFR part 81, the name and description of the AQCR in § 81.80 are being revised, and a new AQCR is being added. In 40 CFR § 52.121 and § 52.1471 (Classification of regions), and in 40 CFR § 52.130 (Source surveillance) the name of the AQCR is being changed.

The EPA is approving this redesignation because it meets the requirements of section 107(e) of the Clean Air Act, as amended, which requires, in effect, that the redesignation be for purposes of improved air quality management. In addition, the Governor of Arizona has consented to the proposed redesignation, as required by section 107(e).

On June 22, 1979 (44 FR 36434) the EPA published a Notice of Proposed Rulemaking, proposing to redesignate Clark County as an intrastate AQCR and inviting public comments on that proposal. No comments were received.

The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Sections 107, 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407, 7410, and 7601(a)))

Dated: January 29, 1980.

Douglas M. Costle,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D—Arizona

1. Section 52.121 is revised to read as follows:

§ 52.121 Classification of regions.

The Arizona plan is evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Ozone
Arizona-New Mexico Southern Border Interstate	IA	IA	III	III	III
Mohave-Yuma Intrastate	I	IA	III	I	I
Four Corners Interstate	IA	IA	III	III	III
Phoenix-Tucson Intrastate	I	I	III	I	I

2. Paragraphs (a) and (c)(1) of § 52.130 are revised to read as follows:

§ 52.130 Source surveillance.

(a) The requirements of § 51.19(a) of this chapter are not met since the plan does not contain legally enforceable procedures for requiring sources in Gila, Pinal, and Santa Cruz Counties in the Phoenix-Tucson Intrastate Region, in the Mohave-Yuma Intrastate Region, and in the Arizona portions of the Arizona-New Mexico Southern Border and Four Corners Interstate Regions to maintain records of and periodically report on the nature and amounts of emissions.

* * * * *

(c) *Regulation for source recordkeeping and reporting.* (1) The owner or operator of any stationary source in the counties of Gila, Pinal, or Santa Cruz in the Phoenix-Tucson Intrastate Region (§ 81.36 of this chapter); the Mohave-Yuma Intrastate Region (§ 81.268 of this chapter); or the Arizona portions of the Four Corners or Arizona-New Mexico Southern Border Interstate Regions (§§ 81.121 and 81.99 of this chapter) shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures.

* * * * *

Subpart DD—Nevada

3. Section 52.1470, paragraph (c)(15) is added as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(15) Redesignation of the Clark-Mohave Interstate AQCR submitted on March 23, 1979, by the Governor.

* * * * *

4. Section 52.1471 is revised to read as follows:

§ 52.1471 Classification of regions.

The Nevada plan is evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Ozone
Las Vegas Intrastate	I	IA	III	I	I
Northwest Nevada Intrastate	I	III	III	III	III
Nevada Intrastate	IA	IA	III	III	III

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart B—Designation of Air Quality Control Regions

5. Section 81.80 is revised to read as follows:

§ 81.80 Las Vegas Intrastate Air Quality Control Region.

The Las Vegas Intrastate Air Quality Control Region (Nevada) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdiction or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 7602(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nevada: Clark County.

6. Section 81.268 is added as follows:

§ 81.268 Mohave-Yuma Intrastate Air Quality Control Region.

The Mohave-Yuma Intrastate Air Quality Control Region (Arizona) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 7602 (f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona: Mohave County and Yuma County.

[FR Doc. 80-3619 Filed 2-1-80; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Part 3-3

Noncompetitive Procurement

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is amending the departmental procurement regulations, 41 CFR Chapter 3, to add a new subpart concerning noncompetitive procurement. Coverage of noncompetitive procurement is presently located at § 3-3.802-50, and this section is being cancelled as a result of the establishment of the new Subpart 3-3.53, Noncompetitive Procurement. The regulation is being established as a subpart to emphasize the importance of the subject matter and to facilitate reference.

Changes to the existing regulation are being made in three areas. The first change concerns criteria, § 3-3.5303, where revisions have been made to clarify the term "sources sought synopsis" and to explain its use. The second change concerns review and approval, § 3-3.5306, where revisions have been made to accommodate a recent Federal Procurement Regulations amendment to § 1-3.101(d) which requires that noncompetitive procurements over $10,000 be reviewed and approved by an official above the contracting officer level prior to negotiations. The third change concerns whole project buys, § 3-3.5308, where a definition and explanation of its use have been added to clarify the concept.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT:
E. S. Lanham, Office of Procurement Policy, Office of Grants and Procurement, OASMB-OS, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202-245-0481.

SUPPLEMENTARY INFORMATION: Since the noncompetitive procurement regulation was being restructured into the subpart format, some portions have been edited and rewritten for clarity and simplicity. However, the meaning and intent have not been altered from what is presently stated in § 3-3.802-50, except as indicated in the Summary.

It is the general policy of the Department to allow time for interested parties to participate in the rule making process. However, since the amendments are administrative in nature, the public rule making process is deemed unnecessary in this instance. The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Therefore, 41 CFR Chapter 3 is amended as set forth below.

Dated: January 28, 1980.

E. T. Rhodes,

Deputy Assistant Secretary for Grants and Procurement.

§ 3-3.802-50 [Deleted]

1. Under Subpart 3-3.8, Price Negotiation Policies and Techniques, of Part 3-3, Procurement by Negotiation, § 3-3.802-50, *Noncompetitive procurements*, is cancelled in its entirety.

2. Under Part 3-3, Procurement by Negotiation, Subpart 3-3.53, Noncompetitive Procurement, is established, and the table of contents for Part 3-3 is amended to add the following:

Subpart 3-3.53—Noncompetitive Procurement

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3-3.53—Noncompetitive Procurement

§ 3-3.5300 Scope of subpart.

This subpart sets forth policies and procedures applicable to all noncompetitive procurements. It describes the criteria for use in determining whether a procurement may be made noncompetitively, describes the justification documents required, and prescribes review and approval requirements.

§ 3-3.5301 Policy.

(a) All negotiated procurements are to be conducted competitively, as required by §§ 1-1.301-1, 1-1.302-1(b), and 1-3.101(d), unless there are compelling and convincing reasons and/or circumstances which justify a noncompetitive procurement. When a proposed procurement appears to be noncompetitive, that is, only one source has been identified, the procuring activity is responsible for ensuring that competition is definitely not feasible, and that positive actions are taken to avoid the need for subsequent or continuing noncompetitive procurements. These actions should include an analysis of the reasons and/or circumstances leading to the determination of why the noncompetitive procurement has resulted, and what steps can be initiated to preclude noncompetitive procurements in the future.

(b) A noncompetitive procurement may also result from the submission of an unsolicited proposal. In this circumstance, the responsible program office may recommend that a noncompetitive procurement be made to the submitting organization or individual to perform work or services. This recommendation must be in writing and prepared in the "Justification for Acceptance of Unsolicited Proposal" format, as required by § 3-4.910, setting forth the information required by §§ 1-4.909(d) and 1-4.910(b). The "Justification for Acceptance of Unsolicited Proposal" is used in place of the "Justification for Noncompetitive Procurement." Negotiations with a source that has submitted an acceptable unsolicited proposal shall not be initiated until approval is obtained in accordance with this subpart.

§ 3-3.5302 Exceptions.

The provisions of this subpart apply to all negotiated procurements except:

(a) Procurements of $500, or less (see § 3-3.603-50(a));

(b) Procurements of professional services; e.g., for physician, veterinarian, dentist, or legal services negotiated under the authority of 41 U.S.C. 252(c)(4), or where the foregoing kinds of services are for $10,000 or less and are negotiated under 41 U.S.C. 252(c)(3) (see § 3-3.603-50(b)(4));

(c) Procurement of architect-engineer services (see §§ 1-4.10 and 3-4.10);

(d) Procurements of utility services where the services are available from only one source; and

(e) Acquisitions from or through other Federal Government agencies; e.g., interagency agreements, and contracts with the Small Business Administration pursuant to section 8(a) of the Small Business Act.

§ 3-3.5303 Criteria.

The criteria provided below are to be used in determining whether a proposed noncompetitive procurement is justifiable. The critical question to be answered in each justification is why the opportunity to meet a procurement requirement cannot be made available to more than one source. It is critical to the justification of a noncompetitive procurement that reasonable, informed opinions, which are supported by available facts, be provided. Each of the criteria is illustrative of possible reasons. The more facts that are offered and the more knowledgeable the opinions about the marketplace are, the greater is the support to conclude that a noncompetitive procurement is justified. If the contracting officer or the approving official concludes that the support offered to justify a noncompetitive procurement is not convincing, or where there is some unresolved doubt, a sources sought synopsis should be issued to test the marketplace. (The term "sources sought synopsis," as used in this subpart, means the type of synopsis specified in § 1-1.1003-7(b)(7). When the requirement is for other than research and development, the notice in § 1-1.1003-7(b)(7) should be appropriately modified to describe the specific type of service or item to be procured. The sources sought synopsis does not permit potential sources to request solicitations and, therefore, is merely an opportunity for the marketplace to indicate its interest in submitting bids, offers, or quotations for a future procurement.) If there is only one source identified as a result of the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement. As each justification for noncompetitive procurement is reviewed against the following criteria, the reviewer should ask: why the procurement cannot be competed, are there sufficient grounds for excluding all other actual or potential offerors, what action can be taken to obtain competition in the instant procurement, and what action is needed to avoid the need for a subsequent or a continued noncompetitive procurement? Each applicable criterion cited below should be addressed in the justification, and specific rationale supporting each criterion must be provided.

(a) There is only one source in existence which can perform the contract requirements. The existence of one source for the purposes of this regulation should be a matter of fact, and not a matter dependent upon the relative and limited knowledge of sources known by the project or contracting officers. This criterion may not be used to justify a noncompetitive procurement prior to testing the marketplace by issuing a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(b) One source controls copyrights, patent rights, trade secrets, technical data, secret processes, or other proprietary data which are essential to the performance of the contract requirements; the source refuses to license or otherwise make the foregoing data available to other sources; and the

requirement cannot be revised to allow other sources to compete who do not have access to the foregoing data. Factual information should be provided to support the use of this criterion, such as the citation of copyrights, exactly what is covered by the copyright or other data which is necessary to the contract performance, and why the requirement cannot be revised to permit competition. The mere existence of the rights does not in and of itself justify noncompetitive procurement. It must be shown that the Government cannot meet its requirement(s) without the use of the proprietary data. Any doubts should be resolved by summarizing the procurement requirement and issuing a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement. (Note: When this criterion is to be used, the contracting officer is required to obtain legal advice from OGC–BAL.)

(c) One source or individual has a truly unique idea, approach, or equipment which has no like or equal, and this represents the only known item which can meet the Government's needs. (Unsolicited proposals are excluded from the provisions of this paragraph and shall be processed in accordance with §§ 1–4.9 and 3–4.9.) Except in very rare cases, the fact that a proposer submits a proposal containing a unique idea or approach does not, in itself, justify noncompetitive procurement. Mere claims of uniqueness must not be cited in justifications to deviate from the competitive process. There may be other potential sources with equally suitable approaches or ideas which could accomplish the same end results. Except in cases which are convincingly supported by a panel opinion or a consensus of experts who are very familiar with the sources available in the marketplace, the opinion of uniqueness should be tested. The claim that the unique item is the only one which can meet the Government's needs should be based on the objective requirements of the Government, not the personal preferences of the originator. When a test of the claim of uniqueness is appropriate, the project officer should draft a description of the activity's requirement that does not compromise the unique idea or proprietary data of the proposer, and the procurement office shall issue a sources sought synopsis. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(d) A specific item of equipment must be obtained as part of an activity's program responsiblity to test and evaluate certain kinds and types of products. This criterion is limited to testing and evaluation purposes only and may not be used for initial outfitting or repetitive procurements. Project officers should support the use of this criterion with citations from their agency's legislation and the technical rationale for the item or equipment required.

(e) Only one source has complex or specialized physical facilities and/or equipment which, by reason of exclusive use, access or ownership, or by reason of clear superiority to facilities and equipment available to other sources, is capable of adequately meeting the technical requirements of the proposed procurement. It must be shown that the success of the proposed procurement is critically dependent upon the use of the facilities and equipment of this one source. Specific details should be provided as to why the facilities and/or equipment are mandatory for the contract performance, and why the facilities and/or equipment of others cannot meet the contract requirements. This criterion should not be used to justify a noncompetitive procurement without first defining what equipment and/or facilities are needed, and by issuing a sources sought synopsis asking for sources with comparable equipment and/or facilities. If no new sources submit responses to the sources sought synopsis, this data may be used to support a justification for noncompetitive procurement.

(f) Government-owned facilities which are essential to the performance of the contract are available to only one source. Efforts should be made to determine from the cognizant Government agency whether the Government-owned facilities can be made available to more than one source. If this is not possible, then a noncompetitive procurement may be justified.

(g) Full and free competition is precluded because of geographic, socio-economic, or epidemiologic considerations necessarily associated with the procurement. This criterion is intended to recognize certain limits to achieving full and free competition which sometimes follow from certain program legislation and special program requirements. This criterion may not be used in the absence of these established limits, and may be used only when it can be shown that there is only one source which can perform the particular procurement.

(h) The required services must be procured from a certain State, interstate, or local government unit, or from a non-profit organization comprised of officers or representatives of these governmental units, and the organization or unit is unique in its ability to meet the contract requirements. This criterion is intended to recognize that when dealing with governmental entities or their representatives, there are certain cases when only one entity is available to perform, and/or has a unique ability to accomplish, the work. This criterion should not be used to obtain supplies or services which are or can be provided from the commercial marketplace. Where there is more than one unit or organization which can meet the contract requirements, a noncompetitive procurement cannot be justified, unless a Federal or State statute dictates the source. The fact that the governmental units or other nonprofit organizations may offer a lower price or agree to cost share is not adequate reason to justify a noncompetitive procurement.

(i) Time is of the essence and only one known source can meet the Government's needs within the required time frame, and/or time will not permit the testing of a product offered by a source, other than a sole source, to meet the delivery schedule. However, the recognized extreme of public exigency in § 1–3.202 is not to be taken lightly. Public exigency, or other reasons causing situations where time is of the essence, may not be used to justify a noncompetitive procurement without first showing that a limited competition using abbreviated procedures is impossible. If a limited competition is impossible, it must be shown that the recommended contractor possesses the unique capability to perform the required work on time to the exclusion of all other firms. The considerable latitude of the contracting officer to determine the method best suited to satisfy the urgent need is limited by the need to try and achieve a limited competition, if at all possible, and, if not, to determine that the proposed contractor is uniquely able to meet the Government's requirements in time.

(j) There is existing equipment which, for reasons of compatibility and interchangeability, requires an item which is manufactured only by one source. This criterion in for use in procurements where a particular brand name item is required, and an "or equal" will not meet the Government's requirements. This criterion may not be used when there are other manufacturers available which may be able to produce acceptable items even

though their products might require some adjustments and modifications. These other manufacturers must be given the opportunity to compete.

(k) The segments of the project are so intertwined that it is impossible to successfully accomplish the project objectives if all segments are not procured from the same contractor (see § 3–3.5308). This criterion is intended for use under research and development procurements and the procurement of studies. It is only to be used when there is a necessity to procure the total package in order to successfully complete the project. This criterion cannot be used when segments of the project can be completed separately by different contractors. The possibility that additional work may be done more conveniently or even at less expense by the original contractor is not sufficient reason to justify a noncompetitive procurement.

§ 3–3.5304 Procedures.

(a) The program office should discuss prospective noncompetitive procurement requests with their supporting procuring activity as early as possible during the procurement planning stage (see § 3–3.50), preferably before submitting the requisition or request for contract. The discussions may resolve uncertainties, provide program offices with names of other sources, allow proper scheduling of the procurement, and avoid delays which might otherwise occur should it be determined that a noncompetitive procurement is not justified.

(b) When a program office desires to obtain certain goods or services by contract without competition, it shall, at the time of forwarding the request for contract, furnish the procuring activity a "Justification for Noncompetitive Procurement" prepared in accordance with this subpart. All justifications shall be submitted initially to the contracting officer.

(c) The contracting officer who receives a justification for processing shall ascertain whether the document is complete, shall request advice from pricing, audit, legal, and other staff offices as appropriate, and shall forward the justification, including his or her concurrence or non-concurrence, to the appropriate approving official. When the contracting officer does not concur with the justification, a written explanation setting forth the reasons must be provided the approving official. If the noncompetitive procurement is disapproved by the approving official, the contracting officer shall promptly notify the concerned program office.

(d) All required approvals shall be obtained prior to issuing a solicitation to, or commencement of contract negotiations with, the proposed contractor. Preliminary arrangements or agreements with the proposed contractor made by someone other than the contracting officer will have no effect or influence on the rationale to support a noncompetitive procurement.

(e) It is the responsibility of the approving official to determine whether a contract may properly be awarded without competition. The program office and project officer are responsible for furnishing the contracting officer and approving official with pertinent factual information and opinions necessary to make such determinations. Other staff offices shall advise the contracting officer and approving official as requested.

§ 3–3.5305 Format for the justification for noncompetitive procurement.

(a) The format for the justification for noncompetitive procurement in excess of $10,000 will be a separate, self-contained document. Justifications for noncompetitive procurements of $10,000 or less may be in the form of a paragraph or paragraphs contained in the requisition or request for contract.

(b) Justifications for noncompetitive procurement, whether over or under $10,000, shall fully express what is to be procured and the reasons why the requirement should not be competed. Justifications must offer reasons which go beyond inconvenience and must explain why it is impossible to obtain competition. The justification will be documented only with information that is based on facts rather than untested and unsubstantiated conclusions or opinions. Documentation in the justification should be sufficient to permit an individual with technical competence in the area to follow the rationale.

(c) Justifications for noncompetitive procurements in excess of $10,000 will be presented in two parts.

(1) Part I will contain background information about the program and a description of the procurement. The following information should be included:

(i) Date.

(ii) Agency, program office, and project officer (name, address, and telephone number).

(iii) Project identification (Program legislation including citations or other internal program identification data such as title, contract number, etc.).

(iv) Descriptive title of the project. (Attach a full description of the contract requirement. This may be a specification, purchase description, or statement of work. If the procurement, as contemplated at the outset, is a "whole project buy" (see § 3–3.5308) and is expected to exceed $100,000, a procurement plan, as required by § 3–3.50, shall be prepared by the project officer and attached to the justification. The description of the whole project buy must include what is being procured, the estimated cost of the whole and component parts, phases, options, continuations, etc., and the periods of time involved. The description is critical to the approving official's understanding of what he/she is being asked to approve, and for subsequent use by the procurement or project offices.)

(v) Explain whether the procurement is an entity in itself, whether it is one in a series, or part of a related group of procurements.

(vi) Proposed contractor (name and address).

(2) Part II will include the facts and reasons to justify a noncompetitive procurement.

(i) Part II will begin with the following statement:

I recommend that this procurement be noncompetitively negotiated with (Name of proposed contractor)

_____

in the amount of _____ for the following reasons:

(ii) Immediately following the preceding statement, each of the applicable criteria listed in § 3–3.5303 must be addressed, and specific support for each criterion's use must be included.

(iii) At the end of Part II, signatory lines should be provided as follows:

Recommended:
Project Officer _____
Date _____
Concur:
Project Officer's Immediate Supervisor
_____
Date _____
Concur:
Contracting Officer _____
Date _____
Approved:
Approving Official _____
Date _____

§ 3–3.5306 Review and approval.

Justifications for noncompetitive procurements shall be processed for review and approval as follows:

(a) For small purchases over $500, but not over $10,000, the justification, which must address the applicable criteria in § 3–3.5303, may be in the form of a paragraph or paragraphs contained in the requisition or request for contract. The contracting officer is authorized to review and approve (or disapprove) the justification.

(b) For procurements over $10,000, but not over $99,999, the justification shall

be submitted to the contracting officer for review. The contracting officer will either concur or nonconcur, and forward the justification to the principal official responsible for procurement for approval. (When the contracting officer and principal official responsible for procurement are the same individual, the approval will be made by the Noncompetitive Review Board or by the principal POC, agency, or regional official responsible for administration (see (c), below)). The principal official responsible for procurement may redelegate justification approval for procurements between $10,000 and $25,000 to the chief of the procurement office, provided that individual is at least one level above the contracting officer who will sign the contract.

(c) All justifications for noncompetitive procurements $100,000 or over shall be submitted through the contracting officer to the Noncompetitive Review Board (see § 3–3.5307) for approval, unless the POC head, agency head, or principal regional official has determined that the activity will not use a Noncompetitive Review Board. If the Board is not used, the justifications for $100,000 and over shall be submitted through the contracting officer for approval by the principal POC, agency, or regional official responsible for administration. This process shall apply to all activities except the Public Health Service. In the case of the Public Health Service, its agencies, and subelements, all justifications for noncompetitive procurements $100,000 and over shall be submitted to the contracting officer for review. For procurements ranging from $100,000 to $499,999, the contracting officer shall submit the justification through management channels to the "head of the agency" for approval. (This approval authority may be redelegated only to the deputy administrator, director, or commissioner.) For procurements of $500,000 or more, the contracting officer shall submit the justification through management channels to the Assistant Secretary for Health for approval. (This approval authority may be redelegated only to the Deputy Assistant Secretary for Health Operations.)

(d) Each POC, agency, or regional office may prescribe Board reviews for noncompetitive procurements under $100,000 if reduced levels of review would be more consistent with the dollar ranges of contracts awarded.

§ 3–3.5307 Noncompetitive Review Board.

(a) The Noncompetitive Review Board, referred to as the "Board", is responsible for comparing the reasons given in justifications for noncompetitive procurements against the criteria cited in § 3–3.5303, and for making judgments as to the applicability of the policy requirements for competition to specific procurements. If it is determined by the POC head, agency head, or principal regional official to use a Board, the Board shall be established and maintained in compliance with this section.

(b) Boards shall be established by the POC head, agency head, or principal regional official and be directly responsible to that individual. The POC heads are responsible for establishing Boards as needed in their POCs and respective elements. The Assistant Secretary for Management and Budget is responsible for establishing a Board in the Office of the Secretary. The principal regional officials are responsible for establishing Boards in their regional offices. The number and geographical location of Boards will be decided by the POC heads based upon the volume of noncompetitive procurements to be reviewed and the need for timely decisions, provided that the composition of the Boards meet the requirements of the following paragraph.

(c) The POC head, agency head, or principal regional official, as appropriate, shall appoint the Board members. The Board shall be established and delegated the authority by the appointing official to represent and make decisions on behalf of the appointing official with respect to approving or disapproving certain justifications for noncompetitive procurements. The Board shall be comprised of five members, or their alternates, as specified below:

(1) *Chairperson.* There will be a permanent chairperson on the Board who shall be the principal official responsible for administration. The chairperson should represent the appointing official and be able to review actions submitted to the Board from an activity-wide point of view. The chairperson will designate which of the alternate members will attend individual Board meetings and will assure that the proceedings of each meeting are recorded.

(2) *Procurement official.* There will be a key procurement official appointed to the Board. This official will be the principal official responsible for procurement. Where the activity has more than one contracting office, the principal officials responsible for procurement of the respective contracting offices will be designated alternate members. In this case, a principal official responsible for procurement will serve on the Board to review proposed noncompetitive procurements expected to be assigned to his/her office for procurement action. Whenever the principal official responsible for procurement and the contracting officer are the same individual, the official one administrative level above the principal official responsible for procurement shall represent the contracting office in the Board actions.

(3) *Program officials.* Two representatives will be selected from officials at the activity level which have responsibility for program policy or operations, program planning and evaluation, scientific affairs, research, etc., and/or from the program divisions of the activity that sponsor contract projects. The members should be selected on the basis of their knowledge of a program as a whole, but should not ordinarily be involved in the initiation and management of particular or single projects.

(4) *Contracting officer.* The contracting officer responsible for the procurement to which the justification for noncompetitive procurement relates shall serve as a nonvoting member. When Board meetings consider justifications for procurements involving more than one contracting officer, each contracting officer may attend and offer opinions on the justification pertinent to him/her.

As a further note, the project officer, that individual in the program office who originated the justification and who will be responsible for the project management of the contract project, cannot be a member or alternate on the Board. However, the project officer may be invited by the chairperson to the Board meeting during which the justification will be discussed. The project officer should be prepared to answer questions raised by the Board.

(d) Meetings of the Board shall be conducted as follows:

(1) If the estimated amount of the procurement is more than $500,000, a formal meeting of the Board is required. If the estimated amount of the procurement is $500,000 or less, a formal meeting of the Board need not be held if the chairperson, procurement official, and contracting officer concur that a noncompetitive procurement is justified. If any one of these three persons is of the opinion that a noncompetitive procurement is not justified, a formal meeting must be held. Formal meetings will include all appropriate members and will be convened by the chairperson. No action shall be considered by the Board unless the chairperson, procurement official, and two program officials are present.

Decisions of the Board will be by majority rule. In case of a tie vote, the action will be resolved in favor of seeking competition.

(2) The chairperson may seek independent counsel from any source inside or outside of the activity if he/she feels that additional advice is necessary for the Board to reach a sound decision.

(3) The Board shall maintain a written record of the justifications reviewed and the decision made on each. If a justification is approved, only Board approval need be indicated. If a justification is disapproved, the reasons should be stated in writing and forwarded to the originator of the justification. The written decision of the Board should be made a part of the contract file.

§ 3-3.5308 Whole project buys.

(a) "Whole project buy" is a term used to describe a procurement concept whereby a project consists of distinctly identifiable segments or phases which are so interdependent that they must be viewed as a total package and must be procured from a single contractor to ensure consistency and to meet the overall project objectives. This concept is only to be used when it is necessary to procure the whole project or total package from a single contractor in order to complete the project successfully; that is, the identifiable segments or phases cannot be separated and procured individually from other than the single contractor without jeopardizing the successful completion of the project. The whole project buy concept serves as an excellent management tool in that it provides the Board or approving official with detailed and interrelated aspects of the proposed procurement action of a complex project. It also serves to motivate program and procurement personnel to focus their attention on the various aspects of the project and to plan and prepare an indepth analysis encompassing the total project and its component parts. This should result in the development of a procurement plan which identifies all pertinent information concerning the segments or phases of a project, while providing a comprehensive overview of the total project.

(b) Any whole project buy which exceeds $100,000 in the aggregate and which contemplates any noncompetitive procurement actions of any dollar value at any time during the project life shall be submitted to the Board or approving official for approval. This requirement applies even if the first of a series of related procurements in a whole project buy is less than $100,000. It applies to projects with several related procurement actions where the first part of the project is either competitively or noncompetitively awarded, and there are to be subsequent noncompetitive procurements with the original contractor. This requirement applies to all procurements regardless of whether the noncompetitive procurement is called a renewal, follow-on, continuation, extension, etc., is to be effected by means of a contract modification, or is a new start.

(c) Justifications of whole project buys submitted to the Board or approving official shall fully describe what the complete requirement is, how the requirement will be divided into procurement actions, the total estimated cost of the whole project and each individual procurement action, the total period of time for the whole project and each procurement action, and whether all or what parts of the whole project will be procured noncompetitively. For projects where an end point cannot be forecast with certainty, as in the case of basic research, the whole project buy will be the circumscribed amount of time which the program office presently intends to continue the effort.

(d) If the Board or approving official clearly approves the noncompetitive procurement action(s) at the outset of a whole project buy, and the whole project buy results in an original contract followed by either a noncompetitive new contract, or noncompetitive modification to the original contract for work, dollars, and time approved by the Board or approving official, these subsequent noncompetitive procurement actions will not have to be resubmitted for approval. However, whole project buys may not be approved in excess of three (3) years, and approval is limited to that explicitly contained in the justification. If a part of the whole project buy is not included in the justification or there are changes in the project which would amend the whole project buy as approved, the excluded part and/or changes will require a separate review and approval. If there are questions as to what was approved, the questionable material shall be submitted to the Board or approving official for clarification.

(e) Once a whole project buy has been approved at an appropriate level, any RFP issued for the procurement shall contain a notification to all potential offerors that the RFP is for the first phase of a whole project buy, the balance of which is projected to be awarded noncompetitively to the successful offeror. It shall also contain as complete a description as possible of the project so that potential offerors may gain an understanding of the full scope of the project. Finally, the notification shall also state that the Government reserves the right to conduct competitive procurements for the subsequent phases if this becomes possible.

§ 3-3.5309 Implementation.

Each POC, agency, and regional office is responsible for implementing this regulation. Implementing instructions and subsequent changes shall be furnished to the Deputy Assistant Secretary for Grants and Procurement, OS, for review and approval prior to implementation.

[FR Doc. 80-3509 Filed 2-1-80; 8:45 am]
BILLING CODE 4110-12-M

Office of Education

45 CFR Part 121a

Assistance to States for Education of Handicapped Children

AGENCY: Office of Education, HEW.

ACTION: Technical Amendment: Final rule.

SUMMARY: Two changes are made in the existing requirements for the annual report of children served:

(1) The date is changed on which State educational agencies count the number of children residing in the State who are receiving special education and related services. The "child count" is now a once a year requirement.

(2) Since these revisions make it possible for State educational agencies to finalize their count data two months earlier, this document also amends the due date for the report.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to the Congress. They are transmitted to the Congress several days before they are published in the **Federal Register.** The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Officer of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. William D. Tyrrell, U.S. Office of Education, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Avenue SW. (Room 4920, Donohoe Building), Washington, D.C. 20202, Telephone: (202) 245-9405.

SUPPLEMENTARY INFORMATION: The proposed rules for the child count

requirements under Part B of the Education of the Handicapped Act, as amended by Pub. L. 94–142 were published September 8, 1976, 45 FR 37813–37817. The final regulations were included with the implementing regulations for Part B of the Education of the Handicapped Act which were published August 23, 1977, 45 FR 42474–42518. Section 1341 of the Education Amendments of 1978 (Pub. L. 95–561), which became effective fiscal year 1979 changed the dates for counting children who receive special education and related services. The count is now to be taken once a year, rather than twice a year. The "child count" report is required by statute as part of the funding formula used to distribute funds to State and local educational agencies to assist them in the education of handicapped children.

Since the change in dates is required by statute, and the other conforming amendment simply retains the same period for reporting the count (two months), the Commissioner has determined, in accordance with 5 U.S.C. 553, that public rulemaking is unnecessary and contrary to the public interest.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each provision.

(Catalog of Federal Domestic Assistance Number 13.449, Education of Handicapped Children, Part B)

Dated: January 29, 1980.

William L. Smith,

Commissioner of Education.

Part 121a of Title 45 of the Code of Federal Regulations is amended by revising §§ 121a.750(a) and 121a.751(a)(1) and (b) to read as follows:

§ 121a.750 Annual report of children served—report requirement.

(a) The State educational agency shall report to the Commissioner no later than February 1 of each year the number of handicapped children aged three through 21 residing in the State who are receiving special education and related services.

* * * * *

(20 U.S.C. 1411(a)(3))

* * * * *

§ 121a.751 Annual report of children served—information required in the report.

* * * * *

(a) * * *

(1) The number of handicapped children receiving special education and related services on December 1 of that school year;

* * * * *

(b) A child must be counted as being in the age group corresponding to his or her age of the date of the count: December 1.

* * * * *

(20 U.S.C. 1411(a)(3); 1411(a)(5)(A)(ii); 1418(b))

* * * * *

[FR Doc. 80-3579 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD 76-082A]

Ventilation of Boats

AGENCY: Coast Guard, DOT.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 79-38641 appearing at page 73047 in the **Federal Register** of December 17, 1979, paragraph 25.40-1(a) is corrected by deleting the words "appoint" and inserting in its place the word "a point".

FOR FURTHER INFORMATION CONTACT:

Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Department of Transportation, Washington, D.C. 20593 (202/426-4027).

Dated: January 30, 1980.

B. E. Thompson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 80-3642 Filed 2-1-80; 8:45 am]

BILLING Code 4910-14-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 78-16; Notice 3]

Federal Motor Vehicle Safety Standards Steering Control Rearward Displacement; Correction

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

ACTION: Final rule; correction.

SUMMARY: On November 29, 1979, NHTSA published in the **Federal Register** a final rule extending the applicability of Standard No. 204, *Steering Control Rearward Displacement,* to light trucks, buses and multipurpose passenger vehicles with an unloaded vehicle weight of 4,000 pounds or less (44 FR 68470). In amendment number 5 on page 68475 describing the changes made to Standard No. 204, the notice said that a new section S6 was added to the standard. However, the noice did not provide the text for a new section S6. The reference to a new section S6 is an error. No such section was to be added to Standard No. 204. The purpose of this correction is to make clear that the only changes to Standard No. 204 are the amendments to sections S2 and S4 and the addition of a new section S5. All of those changes are fully described on page 68475 of the November 29, 1979, **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT:

Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2242).

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

Issued on January 28, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-3627 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1425]

Atchison, Topeka and Santa Fe Railway Co. Authorized To Transport Grain in Covered Hopper Cars to Mexico at Reduced Carload Minimum Weights

January 29, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1425.

SUMMARY: This Order authorizes The Atchison, Topeka and Santa Fe Railway Company to transport shipments of grain from transit houses at reduced minimum weights of 170,000 pounds in order to comply with Mexican weight limitations. The action is taken because it is the Commission's opinion that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people.

DATES: Effective date: 12:01 a.m., January 30, 1980. Expiration date: 11:59 p.m., April 30, 1980.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION: The Atchison, Topeka and Santa Fe Railway

Company (ATSF) is authorized to transport grain under Southwestern Freight Bureau Tariff (SWFB) 4026, Item 850, which reads that when in covered hopper cars marked capacity of cars used, except when loaded to within 12 inches of roof actual weight will apply, but in no case shall the minimum weight be less than 150,000 pounds per car used. This means that 200,000 pounds of grain would be loaded in many of the covered hopper cars if the cars are loaded to the marked capacity of the car. These rates have application to Rio Grande crossings and will be used extensively in the months ahead for shipments to Mexico. The rate and minimum weight on the date shipment was billed from transit origin applies on the entire movement. Grain on hand in transit houses will be subject to the higher minimum weights under this tariff.

The SWFB filed application for Special Permission to publish a minimum weight of 170,000 pounds from origin, which has been approved. Grain presently on hand in transit houses will still be subject to the higher minimum weights under this tariff. The ATSF requests authority to move the grain from transit houses at a minimum weight of 170,000 pounds in order to comply with the Mexican weight limitations.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1425 Service Order No. 1425.

(a) *The Atchison, Topeka and Santa Fe Railway Company authorized to transport grain in covered hopper cars to Mexico at reduced carload minimum weights.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) is authorized to transport shipments of grain on hand in transit houses located on the ATSF on the service date of this order when moving in covered hopper cars, which carriers are not obligated to furnish, at a minimum weight of 170,000 pounds per car, subject to the rates in Items 38950 and 38958 series, in Southwestern Freight Bureau Tariff 4026, ICC SWFB 4026, when moving via Rio Grande crossings and destined to Mexico.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1425.

(d) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(e) *Effective date.* This order shall become effective at 12:01 a.m., January 30, 1980.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1980, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

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

By the Commission, Railroad Service Board, members Robert S. Turkington and John L. Chaney. Members Joel E. Burns and John R. Michael not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3596 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 24
Monday, February 4, 1980

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.

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. 1

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the third Semiannual Agenda of Regulations under review or development by the Small Business Administration.

SUMMARY: SBA published its initial semiannual agenda of regulations and its plan for implementing EO 12044 "Improving Government Regulations" at 44 FR 8942. The second agenda was published at 44 FR 45412. Although not a regulatory Agency, SBA has drafted a plan and agenda designed to meet both the criteria and the spirit of the EO and enhance the regulatory review process.

The SBA agenda contains many regulations limited in public impact which are nevertheless published to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on the previous SBA Agendas have been general and all have been positive. No changes have been recommended.

The agenda format continues to track regulations under development which were listed on previous agendas. Regulations listed as final in previous agendas are deleted from subsequent agendas. In addition, a Part III, Existing Regulations Selected for Review, is included to inform the public of the regulation review which is currently the Agency priority. The agenda format will continue to be:

Part I: Status of Regulations on Prior Agendas.

Part II: Regulations under Review and Development.

Part III: Existing Regulations Selected for Review.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item on the agenda. Additional regulatory action not listed on the agenda is not precluded.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual listed for the particular item. For supplementary information on previously published agenda items, see the cited **Federal Register.**

For information concerning the overall SBA Regulatory Review and Development Program and general semiannual agenda questions, contact George M. Grant, Jr., Associate General Counsel for Legislation, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 202/653-6662.

Dated: January 30, 1980.

A. Vernon Weaver,
Administrator.

Part I.—*Status of Regulations on Prior Agendas*

Title of regulation	Summary	Target date
January 1979 Proposals—Significant Regulations		
Procurement and Technical Assistance, 13 CFR Part 124, Research and Development Assistance, 13 CFR Part 125.	Complete revision of regulations governing SBA's Certificate of Competency, Prime Contract Assistance, Defense Production Pools, Property Sales Assistance, Subcontracting Assistance, and Technology Assistance Programs. Published as Part 125—Procurement Assistance.	Proposed rule published June 13, 1979, 44 FR 33884. Final rule published October 19, 1979, 44 FR 60273.
Small Business Investment Companies, 13 CFR Part 107, §§ 107.3, 107.101(d) (1), and (2), and §§ 107.205, 107.808.	Small Business Investment Companies Amendments to Part 107 as a result of enactment of Pub. L. 95-507.	Proposed rule published April 10, 1979, 44 FR 21292. Final rule published August 1, 1979, 44 FR 45120.
Pollution Control, 13 CFR Part 111	Regulations redefining eligibility for SBA's Pollution Control Financing	Proposed rule published October 11, 1979, 44 FR 58745. Final rule to be published January 1980.
January 1979 Proposals—Nonsignificant Regulations		
Small Business Size Standards, 13 CFR Part 121.	Size standards applicable when a firm and its affiliated concerns are engaged in more than one industry.	Advance Notice of Proposed Rulemaking April 23, 1979, 44 FR 23875. Proposed rule published July 13, 1979, 44 FR 40897. Final rule published on October 9, 1979, 44 FR 57914.
Small Business Investment Companies, 13 CFR 107.4.	Rule providing that leverage will be extended to unincorporated SBIC's on a non-recourse basis.	Proposed rule published April 19, 1979, 44 FR 23258. Final rule published on August 27, 1979, 44 FR 50028.
Business Loans, 13 CFR 120.3	New Guaranty Agreement for SBA Business Loans	Target Date February 1980.
Loans to State and Local Development Companies, 13 CFR Part 108.	Rules regarding the making of loans to State and Local Development Companies	Proposed Rule published March 2, 1979, 44 FR 11787. Final rule to be published in 1980.

July 1979 Proposals—Nonsignificant Regulations

Title of regulation	Summary	Knowledgeable official	Target date
Business Loan Policy, 13 CFR Part 120.	Section 120.2(d) clarifies the criteria considered in determining which companies are eligible under SBA's Related Company Transaction (alter-ego) Policy.	Robert H. Bartlett, 202/653-6470	Proposed rule published May 7, 1979, 44 FR 26748. Final rule published August 20, 1979, 44 FR 48653.
Business Loans, 13 CFR Part 122.	Section 122.5 limits the SBA share of a guaranteed loan to $350,000 unless exceptional situations exist in which case the SBA share can be $500,000. This change allows the SBA share of a guaranteed loan to be $500,000 without exceptional circumstances.	Evelyn Cherry, 202/653-6696	Final rule published December 13, 1979, 44 FR 72102.

July 1979 Proposals—Nonsignificant Regulations—Continued

Title of regulation	Summary	Knowledgeable official	Target date
Small Business Energy Loans, 13 CFR Part 130.	This rule requires that all "energy" loans to the extent feasible be made under section 7(1) of the Small Business Act.	Evelyn Cherry, 202/653-6696	Final rule published November 28, 1979, 44 FR 67980.
Small Business Size Standards, 13 CFR Part 121.	Definition of small business for assistance by SBIC's and by development companies.	John L. Werner, 202/653-6672	Proposed rule published June 21, 1979, 44 FR 36195. Final rule published September 28, 1979, 44 FR 55815.
Small Business Investment Companies, 13 CFR Part 107.	Amendment of § 107.4 to specify that SBA will make nonrecourse loans to SBIC's formed as limited partnerships.	John L. Werner, 202/653-6672	Proposed rule published April 19, 1979, 44 FR 23258. Final rule published August 27, 1979, 44 FR 500.28.
Small Business Investment Companies, 13 CFR Part 107.	SBA considered changing the ratio of purely private capital to nonprivate capital required for leverage eligibility from SBA.	Peter F. McNeish, 202/653-6848	Notice of proposed rulemaking October 22, 1979, 44 FR 60745. No final rule will be issued.
Small Business Size Standards, 13 CFR Part 121.	Rule establishes a size standard for a small coal mining firm for purpose of small business set-aside leases on Federal coal land.	Harvey D. Bronstein, 202/653-6373	Proposed rule published March 14, 1979, 44 FR 15513 and republished August 10, 1979, 44 FR 47098. Published as final rule October 16, 1979, 44 FR 59504.
Small Business Size Standards, 13 CFR Part 121.	Eligibility criteria for SBA financial assistance to small water supply firms.	Robert N. Ray, Jr., 202/653-6521	Proposed rule published March 6, 1979, 44 FR 12200. Final rule published November 28, 1979, 44 FR 67980.
Loan Moratorium, 13 CFR Part 131.	Regulations implementing SBA's loan moratorium program under Section 5(e) of the Small Business Act, 15 U.S.C. 634(e) which authorizes suspension of a borrower's obligation under an SBA loan.	Timothy O'Leary, 202/653-6429	Proposed rule published April 11, 1979, 44 FR 21654. Final rule published October 22, 1979, 44 FR 60718.

Part II.—*Regulations Under Review and Development*

Nonsignificant Regulations

Title of regulation	Summary	Knowledgeable official	Target date
Small Business Size Standards, 13 CFR Part 121.	A new size standard for retail heating oil dealers	Robert N. Ray, Jr., 202/653-6521	Final rule published on August 10, 1979, 44 FR 47039.
Small Business Size Standards, 13 CFR Part 121.	A new size standard for the purchase of government procurement.	Robert N. Ray, Jr., 202/653-6521	Proposed rule published August 27, 1979, 44 FR 50046.
Disaster Loans, 13 CFR Part 123	A new rule conforming SBA Disaster declaration procedures to Presidential Declarations in areas declared major disaster areas.	Julia B. Baysinger, 202/653-6757	Proposed rule published September 4, 1979, 44 FR 51610.
Business Loan Policy, 13 CFR Part 120; Business Loans, 13 CFR Part 122.	Rules regarding guarantee fees and fluctuating interest rates.	Arthur E. Armstrong, 202/653-6574	Proposed rule published September 21, 1979, 44 FR 54724. Final rule published December 7, 1979, 44 FR 70455.
New Section, 13 CFR Part 117	Proposed rules implementing the Age Discrimination Act of 1975 as it applies to SBA programs.	Arnold Feldman, 202/653-6054	Proposed rule published on October 17, 1979, 44 FR 60032.
Administration, 13 CFR Part 101	Delegations of authority needed to conduct program activities in SBA field offices.	Lee Waugh, 202/653-6703	Final rule published on October 16, 1979, 44 FR 64401.
Small Business Size Standards, 13 CFR Part 121.	A new size standard for retail heating oil dealers for purpose of SBA financial assistance.	Robert N. Ray, Jr., 202/653-6373	Final rule published on December 14, 1979, 44 FR 72582.
Small Business Energy Loans, 13 CFR Part 130.	Elimination of restrictions on use of proceeds	John W. Carrigan, 202/653-6570	Final rule published on January 7, 1980, 45 FR 1411.
Business Loans, 13 CFR Part 120.	Proposed change concerning servicing of business loans by lenders.	Timothy F. O'Leary, 202/653-6429	Proposed rule published on December 21, 1979, 44 FR 75655.

Part III.—*Existing Regulations Selected for Review*

Title of regulation	Summary	Knowledgeable official	Target date
Disaster Loans, 13 CFR Part 123	Regulation implementing Pub. L. 96-38 regarding interest rates.	Julia B. Baysinger, 202/653-6757	Proposed rule to be published February 15, 1980.
Disaster Loans, 13 CFR Part 123	Regulation decentralizing approval authority	Julia B. Baysinger, 202/653-6757	Proposed rule to be published February 15, 1980.
Loans to State and Local Development Companies, 13 CFR Part 108.	Regulation making projects partially financed by sale of tax-exempt bonds ineligible for SBA assistance.	Julia B. Baysinger, 202/653-6757	Proposed rule to be published February 15, 1980.
Disaster Loans, 13 CFR Part 123	SBA has undertaken a complete revision and update of SBA disaster assistance regulations.	Julia B. Baysinger, 202/653-6757	Notice of proposed rulemaking to be published April 1980.
Small Business Size Standards, 13 CFR Part 121.	SBA is developing technical, procedural and clarifying changes to Part 121 to improve administration of field office and central office size determinations, and to better inform the public on size procedures and criteria.	Donald W. Farrell, 202/653-6660	Notice of proposed rulemaking to be published February 1980.
Pollution Control, 13 CFR Part 111	Section 111.4(d) restricts eligibility to concerns with five year history, the last three being profitable. A change is being considered to permit a finding of the equivalent of such experience.	Vincent A. Fragnito, 703/235-2902	Proposed rule to be published March 1980.
Small Business Investment Companies, 13 CFR 107.3.	Amendment of Definition of "Associate of a Licensee" Limited partner of or a Person controlling 10 percent or more of corporate Licensee's stock. No longer "Associate".	Peter F. McNeish, 202/653-6848	Proposed rule to be published February 1980.
Small Business Investment Companies, 13 CFR 107.3.	Amendment of Definition of "Associate of a Licensee" to exclude attorneys at law not under retainer to Licensee.	Peter F. McNeish, 202/653-6848	Proposed rule to be published March 1980.
Small Business Investment Companies, 13 CFR 107.301(c).	Increase maximum permissible interest charges (where local law imposes no lower ceiling) to 7 points over Federal Financing Bank rate on 10-year debentures in effect at time loan is made to Small Concerns.	Peter F. McNeish, 202/653-6848	Proposed rule to be published February 1980.

Part III.—*Existing Regulations Selected for Review*—Continued

Title of regulation	Summary	Knowledgeable official	Target date
Small Business Investment Companies, 13 CFR 107.	Amendment of 13 CFR 107.4 and other affected sections to allow limited partnerships with individual general partners to be licensed as small business investment companies.	Peter F. McNeish, 202/653-6848	Proposed rule to be published February 1980.
Small Business Investment Companies, 13 CFR 107.	Comprehensive review of entire Part in contemplation of issuance of Revision 6 of Part 107.	Peter F. McNeish, 202/653-6848	Proposed rule to be published July 1980.
Management Assistance, 13 CFR Part 129.	SBA is undertaking a revision of management assistance regulations.	John C. Patrick, Jr., 202/653-6628	Notice of proposed rulemaking July 1980.

[FR Doc. 80-3597 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 121

Small Business Size Standards; Size Determination Regarding SBA Assistance for Concerns Which Have Been Approved for Participation in the 8(a) Program

AGENCY: Small Business Administration.

ACTION: Proposed Rule.

SUMMARY: This proposed rule provides a special procedure to determine the size status of concerns which have been approved for participation in the 8(a) program desiring SBA assistance to perform the project covered by the 8(a) subcontract. It is necessary because in this case the SBA size standard limitations tend to work at cross-purposes with the 8(a) program and, therefore, slow down the development of minority-owned small business or other economically/socially disadvantaged small business.

DATE: Written comments must be submitted by March 5, 1980.

ADDRESS: Kaleel C. Skeirik, Chief, Size Standards Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Jr., (202) 653-6373.

SUPPLEMENTARY INFORMATION: Present SBA regulations require applicants for SBA assistance to comply with size standard regulations as stated in 13 CFR, 121.3, regardless of the applicant's status as a small business under other SBA programs.

This requirement, meeting the various SBA size standards, has proved to be difficult for concerns which have qualified for participation in the 8(a) program. These 8(a) firms have qualified under the procurement size standard applicable to their principal activity, but may not be eligible under the loan and other size standards. These concerns at times have required additional assistance which often is difficult to obtain without the help of the SBA. Thus, the size standard limitations at times tend to work at cross-purposes with the 8(a) program and, therefore, slow down the development of minority-owned or other socially or economically disadvantaged small business. It is therefore the SBA's contention that a concern which has been approved for participation in the 8(a) program and, that has received a subcontract under that program, should be eligible for additional forms of SBA assistance to assist it in satisfying the 8(a) subcontract. The proposal would allow eligibility for these 8(a) firms under various size standards including SBA loans, Government property sales, small business investment companies, and surety bond assistance.

These regulations are issued for proposed rulemaking. Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, as amended, notice is hereby given that § 121.3-7, Chapter I, Title 13 of the Code of Federal Regulations is proposed to be amended by adding the following new paragraph (c):

§ 121.3-7 Differentials.

* * * * *

(c) Notwithstanding size criteria of 121.3-9, 10, 11, 12, and 15, a firm which is independently owned and operated and is not dominant in its field of operation which has been awarded a subcontract under Section 8(a) of the Small Business Act is an eligible small business including its affiliates under 121.3-9, 10, 11, 12, and 15 for purposes of receiving assistance which would allow it to perform such 8(a) subcontract.

Dated: January 23, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-3598 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-1-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rulemaking would require modifications to the main landing extension/retraction systems on Boeing Model 727 series airplanes. These modifications are necessary to prevent gear-up landings and possible resultant injury to occupants.

DATES: Comments must be received on or before April 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-1-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Mack, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Failures in the main landing gear lock system on Boeing Model 727 series airplanes have occurred which caused missequencing and subsequent jamming of the gear and wheel well door. Nine jamming incidents resulted in gear-up landings. Also, failures have occurred in the main landing gear manual extension system support structure which prevented extension of the gear by manual means, resulting in a gear-up landing when the "A" hydraulic system (which powers the normal extension system) was inoperative.

Amendment 39-3410, AD 79-04-01, as amended by Amendment 39-3577, requires inspections of the main landing

gear lock system components whose failure can or has caused the missequence condition. The AD requires replacement of certain parts, such as bolts, for which repetitive inspection has been determined to be inappropriate or impractical. Also, the AD requires inspections of the main landing gear manual extension system support structure components, made from 7079–T6 aluminum alloy, which have failed due to stress corrosion.

Recently, the FAA has reviewed the effectiveness of AD 79–04–01 in preventing further main landing gear-up landings due to extension/retraction system component failures. This was due, in part, to two gear-up landings which occurred subsequent to the issuance of AD 79–04–01. As a result of these two incidents, it was necessary to amend the AD (by Amendment 39–3577). Although the AD constitutes a comprehensive inspection and/or replacement program, the review indicated that it is only an interim action since failure of most of the extension/retraction system components (original or improved design), for whatever reason, will cause a missequence condition and result in a gear-up landing. Also, missequencing can and has occurred due to other malfunctions in the system, such as binding in the uplock hook assembly. Therefore, the ultimate action should be (1) complete prevention of wheel well door/gear jamming or (2) redesign and modification of the lock system.

Boeing has designed, tested and received FAA approval of an improved door safety bar mechanism which satisfies item (1) above. This mechanism is capable of withstanding hydraulic operated door loads associated with missequencing for which the original safety bar was not designed.

In addition, the FAA believes that the uplock assembly modification of Boeing Service Bulletin No. 737–32–245, Revision 4, should be accomplished within a specified time. This service bulletin provides for increased corrosion protection of installation of lubrication provisions and reduces binding of the uplock hook. Corrosion and binding have been attributed as the causes of several out-of-sequence operations. Presently, the AD allows for continued, repetitive force tests of the assembly.

Based on the above, the FAA proposes to issue an Amendment to AD 79–04–01 which would require replacement of the existing safety bar mechanism with an improved mechanism to prevent door/gear jamming when failures or malfunctions occur in the main landing gear lock system, and replacement of the main landing gear manual extension system support structure with parts of improved material, and modification of the uplock assembly.

The AD would allow for alternate modifications which can be shown to accomplish the same intent as that proposed.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 80–NW–1–AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by further amending Airworthiness Directive 79–04–01, Amendment 39–3410 (44 FR 9735), as amended by Amendment 39–3577 (44 FR 56318), as follows:

1. By revising Paragraph C.2 to read as follows: Prior to July 1, 1981, accomplish the main landing gear uplock assembly modification specified in Boeing Service Bulletin No. 727–32–245, Revision 4, or later FAA approved revisions, or an alternate approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. This modification constitutes terminating action to the requirements of Paragraph C.1 above."

2. By redesignating Paragraphs F, G, and H as Paragraphs H, I, and J, respectively; and

3. By adding the following new Paragraphs F and G:

"F. Prior to July 1, 1982, install the improved main landing gear safety bar mechanism, Boeing Part Number 65C20388, LH and RH side assemblies, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Accomplishment of this installation constitutes terminating action to Paragraphs A, D, and E of this AD. If Boeing Service Bulletin Numbers 727–32–237, Revision 2, 727–32–251, and 727–32–257, Revision 1, or later FAA approved revisions, or equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, have been accomplished, the above safety bar mechanism or approved equivalent need not be installed until December 31, 1983.

"G. Prior to July 1, 1982, (1) replace the main landing gear manual extension system gearbox horizontal supports, LH and RH sides, Boeing P/N 65–24575–1, with Boeing P/N 65–69156–1 in accordance with Boeing Service Bulletin No. 727–32–164, Revision 2, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, (2) replace the main landing gear manual extension system support yokes, LH and RH sides, Boeing P/Ns 65–26300–1/–2, 65–26300–7/–8, 65–81412–1/–2, 65–26300—11/ 12, and 65–26300–17/–18 with Boeing P/Ns 65–26300–21/–22 or 65–26300–23/24 in accordance with Boeing Service Bulletin No. 727–32–204, Revision 3, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, and (3) replace the main landing gear manual extension system gearbox housing, Boeing P/N 65–27485–1/–2, LH and RH sides, with Boeing P/N 65–27485–11/–12 in accordance with Boeing Service Bulletin No. 727–32–279, or later FAA approved revisions, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. The replacement accomplished per this paragraph constitutes terminating action to Paragraph B of this AD."

(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 11.85).

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

Issued in Seattle, Washington, on January 24, 1980.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 80-3200 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-3-AD]

Airworthiness Directives; Cessna Model 150M, A150M, 152, A152, 172N and R172K Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to adopt an Airworthiness Directive (AD) that would require modification of the wing flap position preselect follow-up system on certain Cessna Model 150M, A150M, 152, A152, 172N and R172K airplanes. The proposed AD is needed to prevent a possible failure which can result in sudden unexpected retraction of one wing flap, thereby creating possible unsafe conditions.

DATES: Comments must be received on or before February 24, 1980.

ADDRESSES: Send comments on the proposal to: FAA, Central Region, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 80-CE-3-AD, 601 East 12th Street, Kansas City, Missouri 64106.

Cessna Single Engine Service Information Letters SE79-16 and SE79-16 (Supplement #1) and Cessna Service Kit Instructions Number SK172-60A, dated May 3, 1979, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685-9111. Copies of the service letters and the service kit instructions are 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: Douglas W. Haig, Aerospace Engineer, Engineering and Manufacturing District Office #43, Room 220, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 942-4219.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Seven reports showing broken direct flap cables and ten reports showing frayed direct flap cables on certain Cessna 150, 152 and 172 series airplanes have been received. Failure of the direct flap cable results in sudden unexpected retraction of the left wing flap while the right flap stays down. This condition has a sudden adverse effect on airplane controllability. It has been demonstrated by flight test that the affected models of airplanes can be flown with one wing flap retracted. However, the dynamic effect of sudden retraction of one wing flap has not been tested. In addition, the affected airplanes are often flown by student and low time pilots who may not be able to successfully cope with sudden retraction of one wing flap. Failure of the direct flap cable is due to fatigue caused by bending stresses introduced into the cable at the point where the flap position preselect follow-up cable is clamped to the direct flap cable. Cessna has now issued Cessna Single Engine Service Information Letters Number SE79-16 and SE79-16 (Supplement #1) and Service Kit SK172-60A making available hardware and instructions for installation of a new improved wing flap position preselect follow-up cable clamp on the direct flap cable. The new preselect cable clamp is designed to perform its function without inducing fatigue type bending stresses into the flap direct cable. This will eliminate the unsafe condition resulting from fatigue failure of the direct flap cable caused by the original configuration preselect cable clamp. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require installation of the new flap position preselect follow-up cable clamp in accordance with instructions in Cessna Service Information Letters SE79-16 and SE79-16 (Supplement #1) and Cessna Service Kit SK172-60A on certain serial numbers of Cessna Models 150M, A150M, 152, A152, 172N and R172K airplanes.

The Proposed Amendment

Accordingly, the FAA proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Cessna: Applies to the following models and serial number airplanes certificated in all categories:

Models and Serial Numbers

150M—15078506 through 15079405
A150M—A1500685 through A1500734
152—15279406 through 15283354
A152—A1500433, A1520735 through A1520867
172N—17261445, 17267585 through 17272447
R172K—R1722000 through R1723127

COMPLIANCE: Required as indicated unless already accomplished. To assure continued structural integrity of the wing flap direct cable, thereby preventing possible sudden unexpected retraction of the left wing flap accomplish the following:

(A) Prior to or upon accumulation of 1000 hours time-in-service for airplanes with less than 900 hours time-in-service on the effective date of this AD or within the next 100 hours time-in-service after the effective date of this AD for airplanes having 900 hours or more time-in-service on the effective date of this AD: Install a new Cessna Part Number 0560037-1 flap follow-up cable clamp and associated hardware in accordance with instructions in Cessna Single Engine Service Information Letters SE79-16 and SE79-16 (Supplement #1) and Cessna Service Kit SK172-60A dated May 3, 1979.

(B) A special flight permit, in accordance with FAR 21.197, is permitted for the purpose of moving affected airplanes to a location where the modification required by this AD can be accomplished.

(C) Any equivalent means of compliance with this AD must be approved by the Chief, Engineering and Manufacturing District Office #43, Wichita, Kansas, Telephone (316) 942-4219.

(Secs. 313(a), 601 and 603 of the 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. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.85 of the Federal Aviation Regulations (14 CFR Sec. 11.85))

Note.—The FAA has determined that this document involves a proposed 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 evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Federal Aviation Administration, Central Region, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 80-CE-3-AD, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-5446.

Issued in Kansas City, Missouri on January 23, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-3201 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 78-WE-5-AD]

Airworthiness Directives; Lockheed L-188 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD) applicable to Lockheed Model L-188 airplanes by providing for additional repetitive inspections of the wing structure and extending the applicability of the inspections to include lower-time airplanes, as well as those airplanes which had been previously modified. This AD is needed to detect and repair fatigue cracks which if uncorrected could result in loss of strength capability of the wing.

DATES: Comments must be received on or before April 7, 1980.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region. Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, Calif. 91520. Attention: Commercial Support Contracts, Department 63-11, U-33, B-1.

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

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

This notice proposes to supersede Amendment 39-3204, 43 FR 19210, Ad-78-09-06 which currently requires repetitive inspections of the wing front spar lower cap and provides terminating action for such inspections on Lockheed Model L-188 airplanes. After issuing Amendment 39-3204, the Federal Aviation Administration (FAA) has received reports of cracks in wing structure in adjacent areas not covered by the existing AD. Additionally, the FAA has determined that fatigue damage occurs at an exposure threshold lower than the 35,000 hours' time in service presently established by the existing AD. Therefore, the FAA is considering superseding Amendment 39-3204 by increasing the effectivity to include airplanes with 30,000 hours' time in service, (was 35,000 hours); extending the inspections to include adjacent structure, and providing a more restrictive terminating action.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to all Model 188A and 188C series airplanes certificated in all categories.

To prevent loss of strength capability of the wing due to fatigue cracking accomplish the following; unless previously accomplished:

(a) Before accumulating 30,000 hours' time in service or within the next 100 hours' time in service on those airplanes with 30,000 or more hours' time in service, unless accomplished within last 400 hours:

(1) Inspect the wing front spar lower cap per paragraph (d) of this AD; and

(2) Reinspect per paragraph (d) prior to accumulating 500 hours' time in service since the last inspection required by paragraph (a)(1).

(b) Within 400 hours' time in service since inspection required in (a)(2) and thereafter at intervals not to exceed 2,000 hours' time in service, inspect per paragraph (e) of this AD.

(c) Inspections per paragraph (e) of this AD (including the 2,000 hour repetitive inspection) may be substituted for the inspections required by paragraph (a)(1) and (a)(2) of this AD.

(d) Inspect wing front spar lower cap per paragraph 1.D.(1) of Lockheed Alert Service Bulletin 88/SB-699B dated July 13, 1979.

(e) Inspect spar cap adjacent structure per paragraph 1.D.(2), 1.D.(3), 1.D.(4), 1.D.(5), 1.D.(6), 1.D.(7), and 1.D.(8) of Lockheed ASB 88/SB-699B.

(f) Repair any detected cracks prior to further flight per Lockheed ASB 88/SB-699B.

(g) Incorporation of the modifications/repairs defined by the drawings listed below terminates the inspection requirements of this AD for the listed paragraphs in ASB 88/SB-699B.

(1) Drawing Numbers 842174 and 842181 for paragraphs 1.D.1, 1.D.3, 1.D.4 (spar cap only), 1.D.5 (spar cap at Station 203), 1.D.7 (spar cap at Stations 159 and 167).

(2) Drawing Numbers 842185 and 842186 for paragraphs 1.D.2 and 1.D.6.

(3) Drawing Number 842222 for paragraph 1.D.4 (spar web and cap at Station 203 only).

(4) Drawing Number 842217 for paragraph 1.D.4 (spar web at Station 216).

(5) Drawing Number 841738 (spar web at Station 160).

(h) 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.

[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 11.85]

Issued in Los Angeles, California on January 22, 1980.

W. R. Freshe,

Acting Director, FAA Western Region.

[FR Doc. 80-3202 Filed 2-1-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-NE-23]

Transition Area; Alteration of Pittsfield, Mass., 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice (NPRM) proposes to amend the Pittsfield, Mass., 700-foot transition area so as to provide protected airspace for aircraft executing new proposed NDB Runway 26 and LOC Runway 26 Standard Instrument Approach Procedures (SIAP), Pittsfield Municipal Airport, Pittsfield, Mass.

DATES: Comments must be received on or before February 29, 1980.

ADDRESS: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE–7, Attention: Rules Docket, Clerk, Docket No. 79–NE–23.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass.

FOR FURTHER INFORMATION CONTACT: Richard G. Carlson, Operations Procedures and Airspace Branch, ANE–536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Mass. 01803; telephone (617) 273–7285

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE–7, Attention: Rules Docket Clerk, Docket No. 79–NE–23, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before February 29, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in 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 the Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC. 20591, or by calling (202) 426–8085. Communications must identify the notice number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMS should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Pittsfield, Mass. 700-foot transition area by revising the controlled airspace to the northeast. This action will provide the required controlled airspace for aircraft executing new proposed Standard Instrument Approach Procedures to the Pittsfield Municipal Airport.

The Proposed Amendment

Accordingly, pursuant to the Authority delegated to me, the Federal Aviation Administration proposes to amend the description of the Pittsfield, Mass. 700-foot transition area in § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by:

1. Deleting from the present description all after, "Pittsfield Municipal Airport, Pittsfield, Massachusetts * * *"

2. Inserting after Pittsfield Municipal Airport, Pittsfield, Massachusetts, "* * * and within 5-miles each side of the 065 degree bearing and the 245 degree bearing from the Dalton, Massachusetts NDB (latitude 42 degree 28' 15"N, longitude 73 degree 10' 14.8"W) extending from the 7-mile radius area to 12 miles northeast of the NDB."

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Interim Department of Transportation guidelines (43 FR 8582; March 8, 1978) [Section 307(a), Federal Aviation Act of 1958, (49 USC 1348(a); and Section 6(c), Department of Transportation Act (49 USC 1655(c)].

Issued in Burlington, Massachusetts, on January 22, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-3196 Filed 2-1-80; 8:45 am]

BILLING Code 4810-35-M

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14 CFR Part 71

[Airspace Docket No. 18605/79–ASO–66]

Proposed Group II Terminal Control Area; Tampa, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: As part of a comprehensive program announced on December 27, 1978, in the FAA Administrator's Plan for Enhanced Safety of Flight Operations in the National Airspace System, the FAA proposes to establish a Group II Terminal Control Area (TCA) at Tampa, Fla. Operations in the proposed TCA would be subject to the operating and equipment rules for operation in Group II TCAs specified in § 91.90(b) of Part 91 of the Federal Aviation Regulations. This includes, among other rules, the requirement to have an operable VOR, TACAN receiver, two-way radio, and a transponder to operate in the TCA. An altitude encorder would not be required. This action is intended to increase the capability of the Air Traffic Control (ATC) system to separate all aircraft in the terminal airspace around the Tampa International Airport, Tampa, Fla. It is based on data indicating that a high percentage of near midair collisions reported to the FAA in terminal areas involves visual flight rules (VFR) aircraft that are not required to be under ATC control. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of air space users.

DATES: Comments must be received on or before May 5, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 18605/79—ASO–66, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The docket for this action may be examined at the office of the Regional Air Traffic Division, FAA Regional Headquarters, 3400 Whipple St., Room 648, East Point, Ga., 30344, or at the FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Clifford C. Monteau, Airspace and Procedures Branch, Air Traffic Division, (ASO–530), Southern Region, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone: (404) 763–7866.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before May 5, 1980 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 FAA Regional and Headquarters Rules Dockets for examination by interested persons.

Commenters wishing to have the FAA acknowledge receipt of their comments

submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18605/79–ASO–66." The postcard will be date/time stamped and returned to the commenter.

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.

Prior Public Participation

The Proposal contained in this notice was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. Initially, numerous meetings were held with known local groups to receive and discuss their needs and views for the preliminary TCA configuration. After those local meetings, a tentative TCA configuration was prepared for further public discussion at a subsequent local informal airspace meeting. An extensive publicity effort was made to invite all interested persons to participate in various meetings. In addition to published notices, notice was given through bulk mailings of notices to hundreds of persons believed to have an interest in the proposal, through posting of notices in airports, and through press, radio, and TV coverage. As a result of those meetings, further adjustments to TCA configurations have been made and are reflected in the configuration proposed in this notice. An additional opportunity for public participation is provided by this notice to ensure full consideration of public concerns at any stage of the rulemaking process. Based on the public participation and other available data, several locations that were originally included among the 44 candidates for new TCAs have been dropped from further consideration. Other locations may be dropped later if commensurate levels of safety can be sustained without TCA designations or operational requirements do not justify such designations.

Background: The Need for Increased Positive Control in Terminal Airspace

The takeoff and landing phases of flight result in the concentration of inflight aircraft in a relatively limited volume of airspace surrounding an airport. The number of aircraft per unit volume of airspace at a specific instant of time is a function of the number of aircraft using that airport and its proximity to one or more adjacent airports that share or abut that airspace. As air traffic activity at an airport increases, the need for increasingly precise control of aircraft and protection of airspace from unknown aircraft becomes essential for continued safe operations. The FAA has developed a spectrum of air traffic procedures which, when coupled with precision navigational aids, airport surveillance radar facilities, automated radar data processing capability, and a highly skilled work force, forms a comprehensive system to provide safe and efficient flight operations at all controlled airports.

The scope of services range from simple suggested airport traffic flows at lowest density airports, to terminal control areas at the busiest airports which provide positive controlled airspace. Within the latter, all aircraft are subject to specific operating rules and avionics equipment requirements.

The FAA is proposing to take action to extend or enhance the application of these proven control techniques and hardware subsystems to more airports to assure greater protection of air traffic in the airspace regions most commonly used by passenger-carrying aircraft.

An analysis of the need for extending the ability of ATC to separate visual flight rules (VFR) aircraft and instrument flight rules (IFR) aircraft in terminal airspace is contained in the Administrator's Plan for Enhanced Safety which announced FAA's intent to propose, for public comment, establishment of 44 new Group II TCAs, and the vertical and lateral enlargement of the 20 previously established TCAs. This proposal to establish a Group II TCA at the Tampa International Airport is in accordance with that plan.

Near Midair Collisions in Terminal Airspace

The FAA experience since the establishment of mandatory TCAs and voluntary Terminal Radar Service Areas indicates that, in terminal airspace, ATC control of VFR aircraft reduces the potential for hazardous traffic conflicts. A comparison of periods before and after the establishment of terminal control areas and terminal radar service areas is instructive. In 1968, the FAA conducted an extensive study of near midair collision hazard in the U.S. airspace. The results of this study were published in the "Near Midair Collision Report of 1968," July, 1969. A major portion of the report was devoted to the collision potential in terminal airspace. For the year 1968 (which preceded the establishment of terminal control areas), the report concluded that, for the airports now served by terminal control areas, there were 271 incidents reported as "hazardous" to flight. In response to that study, since 1970, 21 terminal control areas were established. For the fiscal years 1975, 1976, and 1977, there were a total of 64 reported near midair collisions (NMACs) in these terminal control areas. For comparison purposes, this translates into an average of approximately 20 reported incidents per year, under TCA requirements, in contrast with the 271 incidents for the year 1968. These figures are not conclusive indicators of the absolute numbers of incidents, but are viewed as pointing toward the critical relationship between the absence of control of all aircraft and the likelihood of hazardous traffic conflicts in terminal airspace. As a result of public comments, in response to Notice No. 78–19 (44 FR 1322, January 4, 1979), questioning the adequacy of FAA's near midair collision information, a comprehensive review of that information has been undertaken.

The Tampa terminal area contains eight civil public use airports, having a total of 895 based aircraft, and MacDill Air Force Base (AFB), a major military installation. In fiscal year 1978, Tampa Tower recorded 372,532 instrument operations. The three airports with FAA operated control towers in the area generated a total of 506,110 airport operations in fiscal year 1978 and this combined total is forecast to reach 620,000 operations by 1985. The complexity of aeronautical activity in the area is increased as the result of airport proximity. MacDill AFB and Tampa International Airport are 6.5 nautical miles (NM) apart. Peter O. Knight Airport is approximately 4.5 NM northeast of MacDill and directly aligned with Runway 4/22. St. Petersburg-Clearwater International Airport is within 7.25 NM of Tampa International Airport. Beyond the geographic arrangement of airports in the Tampa area and the overall traffic density, complexity is further increased as the result of high speed turbojet aircraft, both military and civil, mixing with slower, propeller driven aircraft.

The "Highest Degree" of Air Transportation Safety

The near midair collision statistics cited above indicate that, for all classes of users of terminal airspace, the furnishing of separation service by ATC, in addition to the duty of pilots; to see and avoid each other, can result in a higher level of air traffic safety. For the missions of air carrier passengers who enter and leave the major air terminals each year, the Congress has directed that the highest feasible degree of safety be achieved. The FAA believes that the continued presence of a "mix" of ATC controlled aircraft and uncontrolled VFR aircraft can interfere unnecessarily with this high safety objective.

The congressional mandate is clear with respect to the high level of safety intended for passengers in air transportation. Section 601 of the Federal Aviation Act of 1958 requires that the FAA give full consideration to the duty resting on air carriers to perform their services with the "highest possible degree of safety in the public interest . . ." This Congressional concern for air transportation, as a distinct class to be protected, was restated in the Airline Deregulation Act of 1978 (Pub. L. 95–504, October 24, 1978) which amended Section 102 of the Federal Aviation Act of 1958 to emphasize the "dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public" (49 U.S.C. 1302(a)). The Airline Deregulation Act of 1978 also directed the Secretary of Transportation ("Secretary") to complete a thorough review of the safety regulations applicable to air carriers in order to ensure that "all classes of air carriers are providing the highest level of safe, reliable air transportation to all the communities served by those air carriers." The Administrator is directed to respond to the Secretary's review by promulgating regulations that may be needed to "maintain the highest standard of safe, reliable air transportation in the United States." The "highest standard of safety in air transportation" is also stressed in relation to annual reports to be submitted to the Congress by the Secretary beginning not later than January 31, 1980 (new Section 107 of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978). The orderly and extensive expansion of positive controlled airspace, including the proposal in this notice, would ensure that the system-wide capability of the FAA to assure separation protection for air carrier passengers remains commensurate with the encouragement and growth of a vigorous, safe and efficient air transportation system under the new act.

Building on Past Programs

While the TCA action described herein is proposed as part of the Administrator's Plan for Enhanced Safety, it follows, and is a logical extension of, programs that first gained momentum in 1962. That year, initiating many years of pilot participation in terminal radar service programs, such a program was established at Atlanta to solve communications workload problems and assist in aircraft sequencing. This was followed by a similar program at Merced Air Force Base, Calif., in 1965. This service was gradually extended until 1970, when the National Terminal Radar Program signalled a major expansion of ATC separation service following the 1968 Near Midair Collision Report (discussed below). Beginning with the Terminal Radar Service Area (TRSA) at Nashville, a total of 86 nonregulatory TRSAs covering 105 airports were established under that program, the last being the Peoria TRSA in 1978. The safety enhancement program includes the proposed addition of 80 new TRSAs in phases ending in 1983.

In addition to these nonregulatory programs, the 1970 National Radar Program initiated the regulatory development of TCAs, also in response to the 1968 Near Midair Collision Report. The TCA concept, as a regulatory means of providing positive control in terminal airspace, was added to the Federal Aviation Regulations in Amendments 71–6 and 91–78, which were published in the **Federal Register** (35 FR 7782) on May 21, 1970, to be effective on June 25 of that year. Those amendments, which defined the nature and operational aspects of TCAs, followed extensive public comment in response to Notice No. 69–41, issued on September 30, 1969, (34 FR 15252); 22 public meetings; and a supplemental notice of proposed rulemaking (Notice No. 69–41B) issued on March 11, 1970, (35 FR 4519). That regulatory history led to the issuance of § 71.12 of Part 71 of the Federal Aviation Regulations, under which TCAs are issued, and § 91.90 of Part 91 of the Federal Aviation Regulations, which describes the equipment and operating rules for a TCA. The TCA action proposed in this notice is issued under § 71.12 and incorporates, without changing, the provisions of § 91.90. While the safety enhancement plan identifies 44 new locations for possible Group II TCAs, the legal basis for, and description of, the TCA concept was established under these 1970 amendments to Parts 71 and 91. That regulatory concept would not be changed by this notice. It is to be noted that the 44 locations were only proposals. Each site is being evaluated on its own merits. In fact, the FAA's analysis to date has led to dropping the following cities from the original list—Des Moines, Iowa; El Paso, Texas; Jacksonville, Florida; Lihue, Hawaii; Salt Lake City, Utah; and Tucson, Arizona. The evaluation is continuing with the very real possibility that other cities may be dropped, even before the issuance of a notice of proposed rulemaking.

National Benefits

The Plan or Enhanced Safety contains an analysis of the safety increases, in terms of passengers protected, that were expected to result from the establishment of the 44 new TCAs originally under consideration. Six of those proposed sites are no longer under consideration at this time. However, if all of those TCAs were established the original analysis indicates that the percentage of air carrier enplaned passengers protected by mandatory ATC separation, compared with the 21 TCAs in existence in January 1978, would rise from 62 percent to 87 percent. In addition, those TCAs would expand the protected commuter passenger enplanements from 38.5 percent to 49.7 percent (in the contiguous 48 states). While those figures have been reduced because of the reduction of the number of candiate sites, the increased protection at the remaining locations is still substantial. This is during a period in which substantial increases in total enplanements are forecast for both classes of air transportation, with annual air carrier and commuter air carrier enplanements expected to exceed 418 million and 14 million, respectively, by 1989.

Parallel increases are also expected for general aviation. For this large and expanding class, the numbers of aircraft, and the total operations, are forecast to increase by more than 60 percent between 1977 and 1989. In addition, manufacturing trends indicate that increasing proportions of the general aviation fleet are being purchased with equipment intended for operation in the busy terminal airspace in which the "mix" of controlled and uncontrolled aircraft has been identified as a

common factor in reported near midair collisions.

For all classes of airspace user, therefore, the FAA believes that the extensive expansion of TCAs at the remaining proposed sites would significantly increase the ability of ATC to provide an effective, additional margin of safety to that furnished by the pilot's duty to see and avoid other aircraft.

Local Benefits

The establishment of a Group II TCA, as proposed in this notice, would make a meaningful contribution to the systemwide increase in safety. During the 12 month period ending December 31, 1978, Tampa International Airport enplaned 3,360,842 passengers. This was 1.54 percent of the national enplaned passengers for the 12 month period ending June 30, 1978. The passenger total for Tampa is forecast to rise to 4,200,000 by 1985. Tampa Tower recorded 217,162 aircraft operations in fiscal year 1978 with 248,000 forecast by 1985. MacDill AFB reported 81,025 aircraft operations for the 12 month period ending March 1, 1979, and has announced replacement of 78 F-4 with 106 F-16 aircraft by 1981. Establishment of the Tampa TCA, as proposed, would by itself increase to 63.5 the percentage of all enplaned passengers that would receive full benefits of mandatory positive control in terminal airspace.

Economic Impacts

The FAA is committed to ensuring that the costs of establishing the Tampa, Florida, TCA are considered before final regulatory decisions are made. Since these costs may affect other TCA proposals announced in the Plan for Enhanced Safety, a comprehensive economic assessment, covering the entire program as described in that plan, was made available to those in attendance at the informal airspace meeting on March 20, 1979, held at the Tampa Golf and Racquet Resort, Tampa, Florida, and is in the Regional and Washington dockets for public comment. The assessment included systemwide assumptions concerning the impact of all 44 proposed TCAs, including the Tampa, Florida, TCA proposal. Since six of the original sites are no longer under current consideration, the cost impact systemwide is even less but the underlying assumptions are still valid as applied to the remaining candidate sites. In addition, to determine whether these general assumptions are valid for the particular TCA airspace description proposed for Tampa, Florida, the FAA has prepared a detailed addendum to the broad national study. This regional economic assessment is appended to the national assessment and is also in the Regional and Washington dockets. Public comment on these economic assessments is invited.

Environmental Impacts

In a manner similar to that described above for the national and local economic assessments, an environmental assessment has been prepared which addresses the overall national environmental assessment effect of the 44 proposed TCAs. This assessment addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the program as a whole, and concludes that these impacts would not significantly affect the quality of the human environment. This national assessment was also made available to those in attendance at the March 20, 1979, informal airspace meeting and is in the Regional and Washington dockets. In addition, like the economic study, this programwide assessment has been supplemented with an environmental assessment, responding to the site-specific impacts of the Tampa, Florida, TCA proposal. This local assessment is in both dockets for public comments. This will assist the Administrator in evaluating local and national environmental impacts before decisions are made concerning the proposed TCA. Public comment on these environmental assessments is invited.

Airspace Outside the United States

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States, is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standard and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Terminal Control Area

The airspace description for the proposed TCA action in this notice was developed by the FAA Southern Region in consultation with the affected users to minimize the potential impact of the proposal. In order to ensure that the airspace users of the Tampa area were given an opportunity to participate in the early, development stages of the TCA, Tampa Tower personnel conducted 39 informal planning meetings and discussions with interested persons at various locations in the Tampa area including adjacent locations, Sarasota and Lakeland. A total of 1,393 persons attended these meetings. In addition, 230 attended the informal airspace meeting held in Tampa on March 20, 1979. As a result of these discussions, the TCA configuration was adjusted and modified so that the proposal represents the minimum airspace required and has the least impact upon ongoing aeronautical activity in the Tampa area.

The Tampa TCA would be multi-tiered and consist of 11 areas, designated alphabetically, from the surface to 12,500 feet MSL. The proposed configuration recognizes a variety of requirements for airspace use that must be excluded from the TCA. For example, the area extending upward from 3,000 feet north of a line between West Pasco Airport and Pilot Country Airport was designed to accommodate cross country glider flights from Clearwater Executive Airport. The surface area around MacDill AFB was

reduced to a boundary ½ mile northwest and parallel to Runway 4/22 and the ground control approach (GCA) glide slope raised from 2.5 to 3 degrees in order to provide Peter O. Knight Airport airspace beneath the TCA with east-west access. These actions also provided additional airspace for Albert Whitted Airport operations. To accommodate St. Petersburg-Clearwater International and Albert Whitted activity, a relatively small area was established with a TCA floor of 2,600 feet. A TCA base of 4,000 feet was established over most training areas. After an initial study of a configuration that did not include MacDill AFB within the TCA, it was concluded that exclusion of the military base might tend to compress civil traffic circumnavigating the TCA into altitudes being used by high performance jet fighters and, thus, derogate overall safety. No objections were received to the inclusion of MacDill AFB in the proposed TCA during planning discussions or at the informal airspace meetings. Finally, concern was expressed about accommodating flight, particularly flight training aircraft, having a need to occasionally transit the "Surface Area" of the proposed TCA. Currently, a practice effectively employed within the Tampa TRSA, called the "Bridge Procedure," enables locally based aircraft that are not equipped with transponder to occasionally operate between airports lying east and west of Tampa International Airport. Use of the "Bridge Procedure" in the TRSA has enhanced safety, afforded some economic benefits, and has fostered fuel conservation within the Tampa aviation community. Numerous requests for continuance of the "Bridge Procedure" concept as part of the proposed TCA have been received. The FAA is able to preserve the advantages derived from the application of the "Bridge Procedure" under the current TCA rules. Section 91.24(c)(3) of the Federal Aviation Regulations (FAR) permits ATC authorization to deviate from the transponder equipment requirements under specified conditions. That limited authority may be exercised by Tampa Tower to preserve the benefits of the "Bridge Procedure." The rule states, ATC may authorize deviations from the transponder requirements (FAR § 91.24(b)), "on a continuing basis, or for individual flights, for operations of aircraft without a transponder, in which case the request for a deviation must be submitted to the ATC facility having jurisdiction over the airspace concerned at least four hours before the proposed operation." This provision is not, and should not be considered, as a general relaxation of the transponder equipment requirements of FAR § 91.90(b). It permits limited deviations at the discretion of the tower to allow flexibility in responding to varying conditions that actually develop. A VFR corridor was considered but is not proposed because it would be necessary to confine two way, VFR uncontrolled traffic to a narrow area. This would not be safe nor practical, because the frequency of thunderstorms and squalls is greater in that area than most locations in the nation. The prevalence of these weather conditions could cause unknown VFR aircraft to inadvertently stray from the corridor and enter the TCA without ATC knowledge or with little or no notice.

The following are responses to recommendations made during the informal airspace meeting that FAA proposes not to adopt.

It was recommended that Standard Instrument Departures (SIDs) and Standard Terminal Arrival Routes (STARs) be used in lieu of a TCA at Tampa. SIDs and STARs are in use; however, they are procedures used by arriving/departing flights under IFR but do not, and cannot, separate VFR aircraft from IFR aircraft. No additional safety benefits would be realized because the "mix" of controlled and uncontrolled, VFR, aircraft would remain.

Concern was expressed for the floor of the area directly north of Tampa Airport being set at 1,900 feet MSL instead of higher. The altitude for the final approach fix on the instrument approach to Runway 18L at Tampa is 1,980 feet MSL. To raise the floor in that area to an altitude higher than 1,900 feet MSL would place that segment of the instrument approach outside the confines of the proposed TCA and would not ensure separation between controlled and uncontrolled aircraft. Thus, raising the floor of that segment of the proposed TCA would derogate the safety of those aircraft in that area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) by adding a new Group II Terminal Control Area to read as follows:

Subpart K—Terminal Control Area

§ 71.401 Designation

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

Primary Airport

Tampa International Airport (27°58'59"N.; 82°31'38"W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL within two areas—one bounded on the east by Long. 82°25'00"W., on the west by Long. 82°38'00"W., on the north by an east-west line through the Cosme radio beacon and on the south by a line beginning at the south side of the Gandy Bridge where it intersects the St. Petersburg coastline, then east along an extended line of the south side of the Gandy Bridge to, and then northeast along, an extended line of the southeast boundary of the Tampa International Airport Control Zone to the Seaboard Coastline Railroad tracks, east along the railroad tracks to Long. 82°25'00"W., excluding that airspace within the St. Petersburg-Clearwater Airport Control Zone; and the other area beginning at the coastline northeast of MacDill AFB at Ballast Point, then southwest along a line parallel to, and 1/2 SM northwest of, the extended centerline of MacDill AFB Runway 4/22 to the Tampa Bay Coastline, then via a direct line west to, and then south along, the St. Petersburg coastline to, and then counterclockwise along, the MacDill AFB Control Zone and a 5 SM arc east of MacDill AFB until intersecting a direct line between the mouth of Alafia River and Ballast Point, and then northwest along, this line to point of beginning.

Area B. That airspace extending upward from 700 feet MSL to and including 12,500 feet MSL within an area bounded by a line beginning at the coastline northeast of MacDill AFB at Ballast Point, then northeast along a line parallel to, and 1/2 SM northwest of, the extended centerline of MacDill AFB Runway 4/22 and counterclockwise along a 1 SM arc of the Peter O. Knight Airport to the coastline, then east and southeast along the coastline to the mouth of the Alafia River, then northwest along a direct line to point of beginning.

Area C. That airspace extending upward from 1,000 feet MSL to and including 12,500 feet MSL within two areas—one bounded by a line beginning at the south side of the Gandy Bridge where it intersects the St. Petersburg coastline, then east along an extended line of the south side of the Gandy Bridge to, and then northeast along, an extended line of the southeast boundary of the Tampa Internaional Airport Control Zone to the Seaboard Coastline Railroad tracks, then east along the railroad tracks to Long. 82°25'00"W., then south along Long. 82°25'00"W., to, and then west along, the coastline to and then clockwise along a 1 SM arc of Peter O. Knight Airport to, and then southwest along, a line parallel to, and 1/2 Sm northwest of, the extended centerline of MacDill AFB Runway 4/22 to the Tampa Bay coastline, then along a direct line due west to, and then north along, the St. Petersburg coastline to point of beginning; the other area bounded by a line beginning where the MacDill AFB Control Zone intersects the

coastline southwest of MacDill AFB, then southwest along a direct line to Lat. 27°46'00"N.; Long. 82°38'00"W., then south along Long. 82°38'00"W., to, and then southwest along, the 045°T(46°M) bearing from the Egmont Key radio beacon to the east side of the approach to the Skyway Bridge, then south along the east side of the Sky Bridge to the Tampa Bay Coastline at Terra Ceia, Florida, then northeast along the coastline to the mouth of the Alafia River, then northwest along a direct line toward Ballast Point until intersecting a 5 SM arc centered on and east of MacDill AFB, then clockwise along this arc to, and then along, the MacDill AFB, Control Zone to point of beginning.

Area D. that airspace extending upward from 1,300 feet MSL to and including 12,500 feet MSL within an area bounded by a line beginning at Lat. 27°57'15"N.; Long. 82°25'00"W., then south along Long. 82°25'00"W., to, and then along, the coastline to the mouth of the Alafia River, then east along the Alafia River to Long. 82°19'30"W., then north along Long. 82°19'30"W., to the Seaboard Coastline Railroad tracks, and then west along the railroad tracks to point of beginning.

Area E. That airspace extending upward from 1,600 feet MSL to and including 12,500 feet MSL within an area bounded by a line beginning at the mouth of the Alafia River, then east along the river to Long. 82°19'30"W., then south along Long. 82°19'30"W., to the Seaboard Coastline Railroad tracks, then southwest along the railroad tracks to Parrish, Florida, then west along a direct line to where the northeast side of the Skyway Bridge intersects the Tampa Bay coastline at Terra Ceia, Florida, and then northeast along the Tampa Bay coastline to point of beginning.

Area F. That airspace extending upward from 1,900 feet MSL to and including 12,500 feet MSL within an area bounded on the east by Long. 82°25'00"W., on the west by Long. 82°38'00"W., on the north by a 20 NM arc centered on and north of the Tampa International Airport and on the south by an east-west line through the Cosme radio beacon, excluding that airspace northwest of a direct line between the West Pasco Airport and the Pilot Country Airport.

Area G. That airspace extending upward from 2,600 feet MSL to and including 12,500 feet MSL beginning at Lat. 27°46'00"N.; Long. 82°38'00"W., then northeast along a direct line to where the MacDill AFB Control Zone intersects the coastline southwest of MacDill AFB, then north along the coastline to, and then west along an extended line of the south side of the Gandy Bridge to the St. Petersburg-Clearwater Airport Control Zone, then north along the control zone to Long. 82°38'00"W., and then south along Long. 82°38'00"W., to point of beginning.

Area H. That airspace extending upward from 3,000 feet MSL to and including 12,500 feet MSL within an area bounded on the west by Long. 82°38'00"W., on the north by a 20 NM arc centered on and north of the Tampa International Airport and on the southeast by a line between the West Pasco Airport and the Pilot Country Airport.

Area I. That airspace extending upward from 4,000 feet MSL to and including 12,500 feet MSL within three areas—one bounded by a line beginning where the 045°T(46°M) bearing from the Egmont Key radio beacon intersects Long. 82°38'00"W., then north along Long. 82°38'00"W., to, and then counterclockwise along, a 20 NM arc centered on and northwest of the Tampa International Airport to at Lat. 28°11'30"N.; Long. 82°49'00"W., then south to at Lat. 27°52'30"N.; Long. 82°51'15"W., then southeast along the Gulf coastline to, and then east along, the Pinellas Bayway bridges to, and then southeast along, the St. Petersburg coastline to, and then northeast along the 045°T(46°M) from the Egmont Key radio beacon to point of beginning; the second area bounded by a line beginning where a 20 NM arc centered on north of the Tampa International Airport intersects Long. 82°25'00"W., then clockwise along this arc to the Seaboard Coastline Railroad tracks, then southwest along the railroad tracks to, and then north along, Long. 82°19'30"W., to the Seaboard Coastline Railroad tracks southeast of the Vandenburg Airport, then west along the railroad tracks, to and then north along, Long. 82°25'00"W., to point of beginning; and the third area bounded on the north by a 30 NM arc centered on and north of the Tampa International Airport, on the south by a 20 NM arc north of the Tampa International Airport, on the east by Long. 82°25'00"W., and, on the west by Long. 82°38'00"W.

Area J. That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL within a 30 NM arc from the Tampa International Airport, excluding that airspace west of Long. 83°00'00"W., and Areas A through I, previously described.

Area K. That airspace extending upward from 10,000 feet MSL to and including 12,500 feet MSL within two areas—one bounded on the east by Long. 82°25'00"W., on the west by the centerline of 350°T(349°M) radial of St. Petersburg, on the north by a 40 NM arc centered on and north of the Tampa International Airport and on the south by a 30 NM arc of the Tampa International Airport; the other area within 10 NM either side of the 133°T(132°M) radial of St. Petersburg and bounded on the northwest by a 30 NM arc centered on and southeast of the Tampa International Airport and on the southeast by a 40 NM arc centered on and southeast of the Tampa International Airport.

(Secs. 307, 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

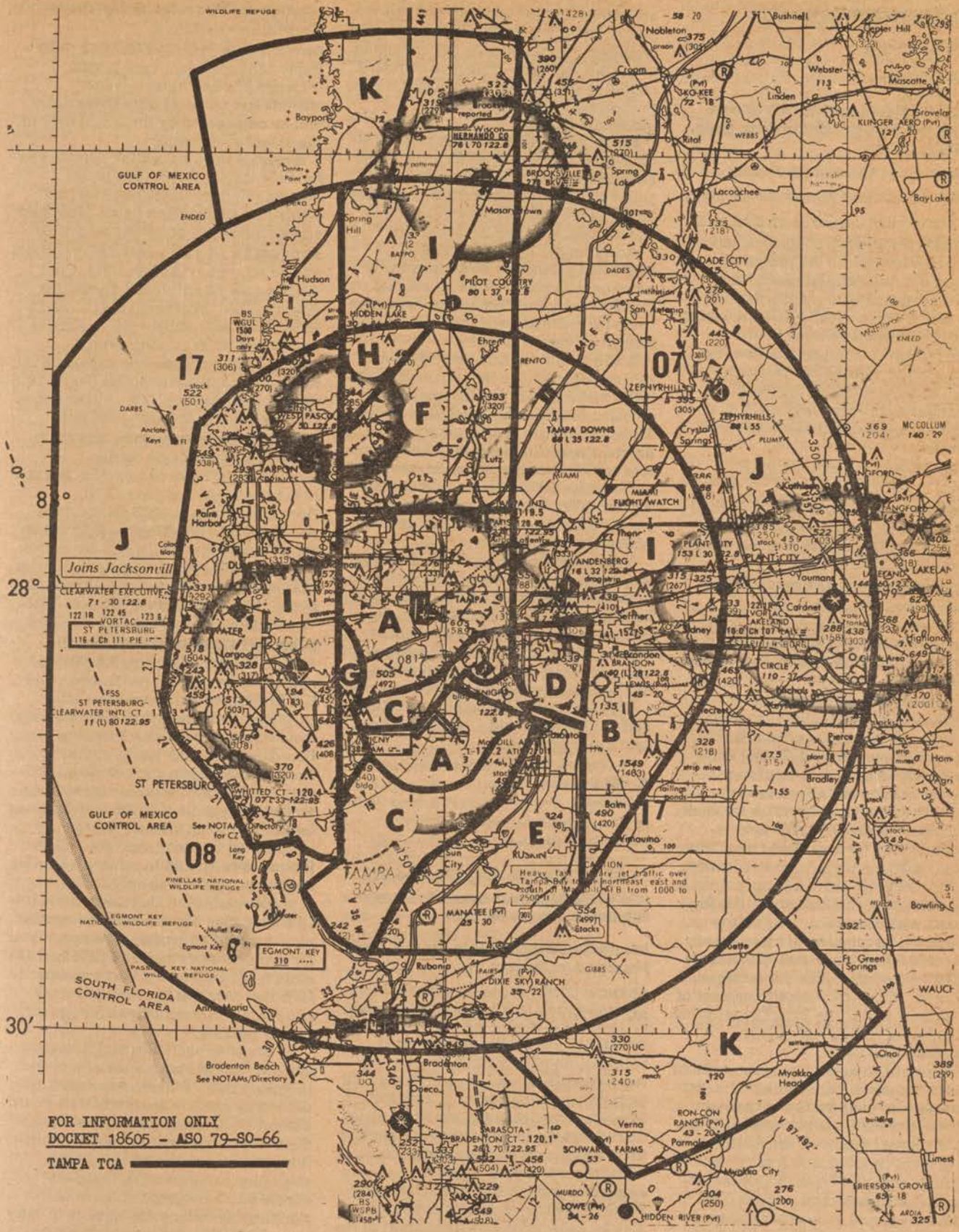
Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). However, establishment of this terminal control area in concert with the proposed establishment or alteration of many other terminal control areas has been determined to be significant. Therefore, this action is included in the draft evaluation prepared in conjunction with that comprehensive action. Copies of the evaluation are in the Washington and Regional dockets, and may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT . . ."

Issued in Washington, D.C., on January 30, 1980.

R. J. Van Vuren,

Acting Director, Air Traffic Service.

BILLING CODE 4910-13-M



FOR INFORMATION ONLY
DOCKET 18605 - ASO 79-SO-66
TAMPA TCA

[FR Doc. 80-3624 Filed 2-1-80; 8:45 am]
BILLING CODE 4910-13-C

CIVIL AERONAUTICS BOARD

14 CFR Part 205

[Docket 37532]

Insurance Requirements for United States and Foreign Air Carriers; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Order to show cause; order 80–1–176.

SUMMARY: In FR Doc. 80–3435 which appears elsewhere in the proposed section of this **Federal Register**, the Board is proposing to modify the standard insurance conditions in foreign air carrier permits as a result of proposed new insurance requirements in a rulemaking proceeding. This order announces the deadline for filing objections to the proposed revision in insurance requirements for foreign air carriers.

DATES: Objections must be filed by March 12, 1980.

ADDRESSES: Objections should be filed in Docket 37532, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Richard Loughlin, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202–673–5880.

SUPPLEMENTARY INFORMATION: Simultaneously with adoption of this order, the Board approved a notice of proposed rulemaking (EDR–395) that proposes to impose new insurance requirements on all U.S. and foreign direct air carriers (attached as Appendix A). Under this proposal, foreign air carriers would be required to maintain at least $300,000 per person third party liability coverage, with a per occurrence minimum of $20,000,000 ($2,000,000 for aircraft with 60 seats or less). They would also be required to maintain at least $300,000 in per person passenger liability coverage with a per occurrence minimum of $300,000 times 75 percent of the aircraft seats. The Board's reasoning in support of these proposals is contained in EDR–395.

At present, insurance requirements for foreign air carriers are contained in the conditions to their foreign air carrier permits. For the reasons stated in EDR–395, we have tentatively decided that the present conditions in foreign air carrier permits that specify insurance requirements should be revised. The conditions would be amended to read: "The privileges granted by this permit are subject to the condition that the carrier comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205." This new standard condition would then be included when the permits are re-issued on an individual basis.

We will give all interested persons 40 days from the date of publication in the **Federal Register** of this order to show cause why the tentative decision should not be made final. Replies to any filed answers shall be due 20 days later.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative decision stated above to revise the insurance condition in all foreign air carrier permits.

2. We direct any interested person having objections to the issuance of an order making final this tentative decision to file with us, not later than March 12, 1980, a statement of objections, setting forth in detail the reasons for the objections. Answers to objections shall be filed not later than April 1, 1980. Because objections are permitted, petitions for reconsideration will not be permitted.

3. If no objections are filed, the Board may issue an order making final these tentative decisions. The final order will become effective on the 61st day after its submission to the President under section 801(a) of the Act, or upon receipt of advice from the President that it will not be disapproved, whichever is earlier.

This order shall be published in the **Federal Register**, and a copy shall be sent to the President.

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–3432 Filed 2–1–80; 8:45 am]

BILLING CODE 6320–01–M

14 CFR Parts 205, 208, 291, and 298

[Economic Regulation Docket 37531 EDR–395, Dated: January 28, 1980]

Insurance Requirements for U.S. and Foreign Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to revise its liability insurance requirements for all U.S. and foreign air carriers operating under its authority. Insurance requirements would be place on certificated route carriers for the first time, and the present cargo liability disclosure statement would be expanded and required for all carriers. All CAB insurance regulations would also be consolidated in a new part of the regulations. This rulemaking is at the Board's own initiative.

DATES: Comments by: March 12, 1980. Reply comments by: April 1, 1980.

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 by: February 11, 1980. The Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 37531, 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: Concerning foreign air carrier requirements, Richard Loughlin, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5880; concering U.S. air carrier requirements, J. Kevin Kennedy, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5918.

SUPPLEMENTARY INFORMATION: The Airline Deregulation Act (P.L. 95–504) amended the Federal Aviation Act (49 U.S.C. 1301, *et. seq.*) to require all certificated air carriers to have liability insurance coverage as set forth by the Board. New section 401(q) of the Act states that unless a carrier complies with the Board's insurance regulations, no operating authorization may be given to it or remain in effect. Prior to adoption of this section of the Act, the Board was required to establish liability insurance regulations only for supplemental (now charter) carriers (14 CFR Part 208). The Board has, however, also imposed insurance requirements on air taxi operators under 14 CFR Part 298 and on domestic cargo carriers under 14 CFR Part 291, and has imposed some conditions for insurance in foreign air carrier permits.

By enacting section 401(q), Congress gave the Board ample authority to see that the public is insured against loss caused by carriers operating with Board authority (49 U.S.C. 1371(q)). Although there has not been a problem with the financial responsibility of existing scheduled route carriers, Congress concluded that deregulation would significantly reduce the barriers to entry into air transportation, which in turn could result in operations by new

[1] All Members concurred.

carriers less able to compensate the public for damage losses in an accident.

The Board's present insurance regulations for U.S. air carriers are based on operating authority and aircraft size (see Appendix A). Charter air carriers are required to carry passenger bodily injury liability insurance in amounts of at least $75,000 per passenger and $75,000 times 75 percent of aircraft capacity per occurrence. For nonpassenger third-party bodily injury, the minimum limits are $75,000 for each person and $500,000 per occurrence. The minimum third-party property damage coverage required is $500,000. Air taxi operators must carry similar coverage, except that they need only have $300,000 in coverage per occurrence for nonpassengers, and $100,000 in coverage for property damage. When providing domestic cargo transportation, carriers need have no specific amount of passenger liability coverage, but they must disclose the extent of their cargo liability insurance, if any. The requirements for public liability coverage for the domestic all-cargo carriers depend on the size of the aircraft. For small aircraft (18,000 pounds payload capacity or less), insurance for public liability is required in the same amount as that for air taxi operators. For large aircraft operations, the required limits are $500,000 for each person and $20,000,000 for each occurrence.

Cargo deregulation is now almost complete, with entry for direct air carriers subject only to a fitness determination. Entry into direct air carrier passenger transportation will also soon be similarly eased, presumably with new carriers providing air transportation throughout the United States. Before deregulation, barriers to entry were substantial, and attainment of authority from the Board to operate was itself evidence of considerable financial resources. Now, new carriers may enter, having demonstrated financial fitness for continuing operations, without necessarily having the financial depth to sustain catastrophic losses.

In order to meet its statutory obligation of ensuring financial responsibility of air carriers sufficient to compensate the public for losses, the Board is proposing to establish liability insurance requirements for all U.S. and foreign direct air carriers. A summary of the existing and proposed requirements is presented as Appendices A and B.

The Board last reviewed its passenger liability requirements in 1967, during a rulemaking to raise the passenger liability insurance requirements for supplemental air carriers for $50,000 to $75,000 per passenger (ER–997, 42 FR 21610, April 28, 1977). We believe that the changes proposed are necessary to keep pace with the increasing value of losses suffered by the public in aircraft accidents. For example, in the first six months of 1974 (the latest year for which figures are available), 75.8 percent of the settlements for death claims resulting from non-Warsaw Convention traffic, which is primarily domestic U.S. traffic, exceeded $75,000, and 50.7 percent of the serious injury settlements also exceeded $75,000. For Warsaw traffic, the percentages are 7.7 and 9.0, respectively. See *Levels of Recoveries On Account of Passenger Deaths & Serious Injuries in Airplane Accidents (1960–1969), as subsequently revised for 1970–1974.*

In summary, the proposal would affect carriers as follows: (1) establish passenger and public liability insurance requirements, as well as public disclosure of cargo insurance and liability limits, which will be applied uniformly to all direct air carriers; (2) establish for the first time liability insurance requirements for certificated route carriers operating passenger aircraft in domestic and international air transportation and for those providing cargo service internationally; (3) increase the existing passenger liability insurance requirements and apply them uniformly to all direct air carriers, both U.S. and foreign, irrespective of the size of aircraft operated; and (4) establish uniform public liability insurance requirements based on the size of aircraft operated, eliminating the existing separate limits set for bodily injury or death and property damage in favor of combined single-limit coverage.

The new regulation would also consolidate all insurance regulations into one part, eliminating the present sections on insurance in Parts 208, 291, and 298. The separate regulations and cross-references have resulted in confusion and the need for users to switch continually from part to part. We would also continue our policy of allowing carriers to meet the minimum insurance amounts by self-insurance plans approved by the Board.

The Board, in establishing its public liability insurance requirements for domestic cargo carriers, concluded that aircraft size is not a good indicator of the risk of an accident. The size of involved aircraft is a major factor, however, in the potential extent of the public loss for which liability insurance should offer compensation. Therefore, as in the domestic cargo transportation rules, we have distinguished between large and small aircraft in proposing public liability insurance requirements, not between the kind of authority under which they operate. This distinction by size of aircraft, rather than by class of carrier, will also allow the proposed requirements to apply easily to carriers operating under dual authorizations, which several carriers now have under individual exemption orders.

Minimum Passenger Liability Limits

The Board's current requirements for passenger liability coverage apply only to charter carriers and to air taxi operators. The requirements set a minimum amount of coverages for each passenger of $75,000. and for each occurrence of $75,000, times 75 percent of aircraft seat capacity. The 75 percent adjustment factor is based on a projected aircraft load factor, and is used to hold down the potential cost of insurance for the carriers. Based on the settlement figures cited previously, the $75,000 minimum level, however, appears inadequate to protect passengers against possible loss. For example, in 1974 the average judgment and settlement for passenger death on non-Warsaw traffic was $233,210, and $171,323 for serious injuries.

We are proposing to increase the required minimum passenger liability to $300,000 for each passenger, and to $300,000 times 75 percent of the aircraft seat capacity for each occurrence for U.S. and foreign direct air carriers. This does not, of course, presume that a carrier would be able in that amount with respect to each passenger. The $300,000 amount would cover the majority of settlements awarded in claims involving passenger injury or death. In the first six months of 1974, 73.8 percent of non-Warsaw death settlements were under $300,000, as were 78.7 percent of the serious injury settlements. These limits would be required of certificated route carriers, charter carriers, and air taxi operators operating passenger or combination aircraft in domestic or foreign air transportation. They would not apply to all-cargo carriers.

Cargo Liability Disclosure

The Board does not now require cargo liability coverage for any class of air carrier, direct or indirect, in domestic cargo transportation. Indirect cargo carriers, such as freight forwarders, and direct cargo carriers in domestic cargo transportation, are, however, required to notify shippers in writing of the extent of the carrier's cargo liability insurance coverage, if any.

Under the present rules, indirect carriers are also specifically required to

notify shippers of limits on the extent of the carrier's liability, if any. There is no such requirement for the direct carriers. Although liability limits are part of the contract between the shipper, and the carrier, direct or indirect, we believe these limits are important enough to require their disclosure. For this reason, we are proposing that all U.S. and foreign air carriers of whatever type in both domestic and international cargo transportation be required to disclose the amounts of their liability insurance coverage, and the extent of their liability, on rate sheets and aiewaybills, and on any other documents given to a shipper when the shipment is accepted.

Minimum Public Liability Limits

As illustrated in Appendix A, the Boards's current requirements for nonpassenger public liability coverage are confusing, since they vary by class of air carrier, by size of the aircraft being operated, and by whether they apply to persons or property. In order to eliminate this confusion, we propose for all classes of U.S. and foreign direct air carriers a uniform minimum coverage of $300,000 per person, and depending on whether the aircraft operated is large or small, minimums of $20 million and $2 million, respectively, per occurrence for persons and property. The proposed $300,000 minimum for public liability insurance of nonpassengers is the same as that proposed for passengers. The result of the proposal on existing requirements would be to increase the required air taxi and charter air carrier per-person minimum coverage from $75,000 to $300,000, and reduce the domestic all-cargo carrier requirement in this respect from $500,000 to $300,000. We are proposing to retain the per-person limit, as opposed to a comprehensive single limit policy, because we understand that coverage arranged in this way is less expensive to obtain, and will insure a more equitable distribution of the total group coverage available to individuals suffering a loss.

Although the domestic all-cargo carrier insurance requirements (Part 291) were adopted only recently, we believe that $300,000 per person, rather than $500,000, more accurately represents the amount of coverage that should be required for all direct air carriers. We are not revising the $20 million total public liability requirements, which reflected the mean public liability coverage totals carried by original section 418 applicants operating large aircraft.

As far as coverage per occurrence is concerned, we propose a minimum public liability requirement of $20 million to cover both persons and property for any carrier operating large aircraft as defined in Part 298 (at present those having more than 60 seats or a payload capacity of more than 18,000 pounds) and $2 million for any carrier operating small aircraft. This approach would eliminate the distinction in Parts 208 and 298 between coverage for nonpassengers' bodily injury or death and that for property damage, in favor of one minimum for both types of coverage. In this way, the collective amount of insurance per occurrence would be available to cover third-party property damage or bodily injury and death claims. For example, under the present air taxi rules, if an aircraft in the course of an accident destroys a $300,000 building but does not harm or kill any person on the ground, only $100,000 of the total $400,000 third-party insurance is available to cover the loss. Under our proposal, the entire amount of public liability insurance could be used to settle the property damage claim. While we have eliminated the differences between classes of direct carriers, we do make a distinction between large and small aircraft, on the assumption that aircraft size is a primary factor in the amount of public loss or damage resulting from an aircraft accident.

Foreign Air Carriers

Foreign air carriers would be included under the proposed uniform liability insurance requirements. The Board has the responsibility to ensure that carriers operating within U.S. territory are adequately able to compensate third parties for losses. The expectations of U.S. citizens suffering losses caused by air operations in this country do not depend on whether the carrier is U.S. or foreign owned. Also, the requirements proposed here do not set liability limits, but only specify the minimum amount of insurance coverage to be maintained by the carriers.

The present standard condition in foreign air carrier permits requiring $1,000,000 single limit public liability coverage would be changed. We have tentatively decided to apply the $300,000 minimum per person public liability coverage (the same as for U.S. air carriers) to foreign air carriers operating flights to or from the United States. The requirement for U.S. carriers to have at least $20,000,000 ($2,000,000 for small aircraft) in such coverage would also apply to foreign air carriers.

For passenger liability coverage, the Board is also proposing the same minimum insurance coverage for foreign air carriers as proposed for U.S. air carriers. The United States is a party to an international convention, the Warsaw Convention, that sets a limit on the liability of carriers to passengers in international transportation involving points in signatory countries. By agreement of those carriers serving the United States, the so-called Montreal Agreement (Agreement CAB 18900, approved by Order E–23680, May 13, 1966), to which the permits of most foreign air carriers operating in the United States require adherence, sets the limit for per passenger liability at $75,000, waiving the liability limitations under the Warsaw Convention. The Senate is now considering ratification of Protocols to the Warsaw Convention that would raise the liability limitations to $100,000. The Board also has pending its reconsideration of the Supplementary Compensation Plan (Docket 28713, Order 77–7–85, July 20, 1977, CAB Agreement 25632), that would provide up to $300,000 in protection to passengers in foreign air transportation.

This Convention does not preclude the United States from ensuring that its own flag carriers or foreign carriers have the ability to compensate adequately passengers suffering injury while traveling to and from the United States. It sets limits on liability, not minimum amounts of insurance coverage, and therefore does not restrict the Board from setting required insurance amounts different from the liability limits of the Convention.

As shown earlier, even in those cases where it is held to be applicable, the settlement of claims by passenges in foreign air transportation already often exceeds the liability limit agreed to under the Montreal Agreement. The proposed insurance coverage would also cover that part of international traffic not covered by the Warsaw Convention, such as traffic to nonsignatory countries, or where courts have carved out exceptions to the Warsaw Convention, such as when inadequate notice is given to the passenger by the carrier of its liability limit.

We have tentatively decided to set the amount of minimum insurance coverage for foreign air carriers at the same levels as proposed for U.S. carriers. Passengers traveling on domestic segments of international flights, such as domestic fill-up traffic by U.S carriers, on charter and scheduled flights, and on U.S. or foreign carriers, would be protected by a uniform standard for minimum insurance coverage.

Simultaneously with this notice of proposed rulemaking, we are issuing an Order to Show Cause to amend the section 402 permits of foreign air carriers. The present insurance conditions in the permits would be removed and replaced with a condition stating that the foreign carrier must

comply with the insurance requirements adopted by the Board.

General Conditions of Coverage

The general terms, conditions, and authorized exclusions for the insurance proposed in this part are modeled after the insurance regulations for air taxis in Part 298 of our regulations. The primary difference between those regulations and the ones proposed here is in the persons the insurance is designed to protect. The coverage proposed in this notice is intended to compensate the injured, not to protect the carriers from loss.

For this reason, the authorized exclusions would be substantially changed. No longer would the carrier and the insurer be able to agree to exclude from coverage instances where the carrier has violated safety or economic regulations or other legal requirements. Nor would other acts by the carrier of which the passenger or other injured parties would not be expected to have knowledge, such as flights in unauthorized geographic areas or with aircraft not listed in the policy, be a basis for exclusion. The insurance proposed in this notice would thus no longer be used to enforce operating requirements on the carriers, but to provide a minimum reimbursement for those injured because of air operations.

Other standard exclusions, such as employee coverage or instances that result from wars, however, would be authorized. We would like comment on whether these authorized exclusions should be retained, and whether others, such as for terrorist acts, should be included or specifically prohibited.

Also, the coverage proposed would be for use over and above other applicable insurance, and would not be used for double recovery. The proposal would continue the requirement that 10-day notice is required by the insurer to the Board before the policy may be canceled or modified to exclude any aircraft or reduce the extent of coverage. The nonrenewal notice is further required to be filed by the insurer no more than 30 days before the policy expiration.

Cost Impact

In developing these proposals, we have informally discussed various insurance requirement schemes with staff members of other government agencies, such as the Federal Aviation Administration and the Military Traffic Management Command, in an attempt to propose reasonable requirements. Also, in order to gauge the effects of changes in the Board's liability insurance requirements on the aviation and aviation insurance industries, we consulted informally with two insurance brokers who deal regularly with smaller certificated carriers, charter carriers, and air taxi operators.

We also consulted informally with the Air Transport Association, the Commuter Airline Association of America, and the National Air Transportation Association. From these conversations, we developed an estimate of the cost impact of our proposed revisions, and our previously stated estimate of average damage claim awards. A summary of these contacts will be placed in the docket.

Although the certificated route carriers have not previously been required to maintain insurance, most already have liability coverage in amounts equal to or greater than the limits we are proposing. There would thus appear to be little cost impact on these carriers from the proposal. In the case of charter air carriers, a similar situation exists. According to their certificates of insurance filed with the Board, the charter carriers, with one exception, have coverage already meeting the proposed limits. With regard to air taxi operators, it is our understanding that most of those air taxis that operate large aircraft or that have substantial operations, such as Allegheny Commuters, currently have liability insurance exceeding the proposed minimum requirements. These carriers usually have single limit comprehensive liability coverage. The remaining air taxi operators may have to increase their insurance coverage to meet our proposed requirements. The smaller operators, we are informed, usually carry this type of policy in the minimum amount recommended by the aviation insurance industry ($2,000,000), of else enough coverage to meet Department of Defense (DOD) requirements for military traffic. DOD requires passenger liability coverage of $100,000 per passenger, with a minimum limit per occurrence of $100,000 times 75 percent of the total number of seats on the aircraft. The DOD-required public liability coverage is $1 million for nonpassenger injury or death, and $1 million for property damage. Under our proposal, those operators carrying a $2 million comprehensive single-limit policy would have to increase their coverage by the amount needed to meet the proposed minimum required coverage for passenger liability.

We understand that a wide range of variables figure in aviation insurance underwriters' pricing decisions. Among these are air carrier location, aircraft type and size, aircraft fleet mix, carrier capitalization, and safety record. Thus, any attempt to gauge precisely the actual effects of the Board's proposed changes on costs runs the risk of over simplification. Nevertheless, we estimate that the proposed requirements would affect liability insurance costs for some air taxi operators approximately as illustrated below:

Aircraft size and type of coverage	Cost of existing requirements	Cost of proposed requirements
Large:		
Passenger liability	[1] $300	[1] $500
Public liability	[2] $1000	[2] $5000
Small:		
Passenger liability	[1] $250	[1] $500
Public liability	[2] $250	[2] $400

[1] Per seat.
[2] Per airplane.

Although the economic impact on the air taxis is difficult to judge, available data seem to suggest that the proposed rule would not create a serious barrier to entry for either air taxis or certificated carriers.

Since we propose reducing the required coverage for section 401 and 418 air carriers providing domestic air cargo transportation, they may realize a minimal decrease in insurance costs.

Effectiveness

We are proposing to delay the effectiveness of any rules and changed limits adopted for 120 days from the date of adoption. This would be intended to give the carriers and the insurers a transition period in order to implement any new regulations. This transition period would not be included in the rule, since it is administrative in nature. Upon the effectiveness of the rule change, carriers would be required to meet the new terms and coverages.

Request for Comment

We stress that these proposals are tentative, and ask that the public give them thorough consideration. We are especially interested in: (1) the advantages and disadvantages of alternative levels of coverage that may be more closely related to possible damages or to company size, (2) different organization and structure of the insurance regulation, and (3) whether there is a need for this type of comprehensive regulatory coverage. We also ask that commenters give us their views on estimated costs, with specific figures if possible.

Our present insurance regulations have required that if a surplus line insurer provides more thant ten percent of a carrier's coverage, the insurer must maintain a trust fund of $300,000 for the benefit of its policyholders. We have

tentatively decided to eliminate the requirement for a trust fund. We have been unable to determine a reasonable basis for setting a specific amount for the trust fund. These insurers have been approved by each State. We would like to have specific comment on the role of surplus line insurers in providing air carrier insurance, and on the desirability and feasibility of making some of the State standards universally applicable.

Proposed Rule

The Board proposes to amend 14 CFR Chapter II as follows:

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES, TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

§§ 208.10 through 208.14 [Reserved]

1. Sections 208.10 through 208.14, inclusive, of 14 CFR Part 208 would be revoked and reserved.

PART 291—DOMESTIC AIR CARGO TRANSPORTATION

§§ 291.21 and 291.22 [Reserved]

2. Sections 291.21 and 291.22 of 14 CFR Part 291 would be revoked and reserved.

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

§§ 298.41 through 298.45 [Reserved]

3. Subpart E, of 14 CFR Part 298, §§ 298.41 through 298.45, inclusive, would be revoked and reserved.

4. Technical conforming amendments would be made in 14 CFR Parts 208, 291, 298.

5. A new Part 205 would be added to read:

PART 205—INSURANCE REQUIREMENTS FOR UNITED STATES AND FOREIGN AIR CARRIERS

Sec.

Authority: Sec. 204, 401, 402, and 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 757, 771; 92 Stat. 1710, 1724, 1731, 1732; 49 U.S.C. 1324, 1371, 1372, 1386.

§ 205.1 Purpose.

This part states rules for liability insurance coverage needed by U.S. and foreign direct air carriers to obtain or to exercise any authority by the Board to operate in interstate, overseas, or foreign air transportation. It also establishes a disclosure statement for shippers about cargo liability coverage for all U.S. and foreign direct air carriers.

§ 205.2 Applicability.

These rules apply to all U.S. and foreign direct air carriers operating under Board authority that carry passengers or cargo in domestic or international air transportation. The liability insurance required by this part extends to all transportation by air in interstate, overseas, or foreign air transportation.

§ 205.3 Basic requirements.

(a) A U.S. or foreign direct air carrier shall not engage in air transportation unless it has in effect liability insurance coverage that meets the requirements of this part. The minimum amounts of insurance required may be provided either by insurance policies or by self-insurance plans approved by the Board. The currently effective policy of insurance or approved self-insurance plan shall be available for inspection by the Board or the public at the carrier's prinicpal place of business.

(b) For purposes of this part, a certificate of insurance is one or more certificates showing issuance by one or more insurers of currently effective and properly endorsed policies of aircraft liability insurance in compliance with this part. When more than one insurer is providing coverage, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance. Insurance policies named in a certificate of insurance that accompanies an application for initial registration or for operating authority shall become effective not later than the proposed starting date for air carrier operations as shown in the application.

(c) The certificate of insurance shall list the types or classes of aircraft, or the specific aircraft by FAA or foreign government registration number, with respect to which the policy of insurance applies.

(d) Each certificate of insurance, and each endorsement limiting the permitted exclusions, shall be signed by an authorized officer or agent of the insurer.

(e) Evidence of insurance coverage meeting the requirements of this part, in the form of a certificate of insurance, shall be maintained on file at the Board at all times.

(f) Insurance coverage to meet the requirements of this part shall be obtained from one or more of the following: (1) insurance companies or associations that are licensed to issue aircraft liability policies in any State, Commonwealth, or Territory of the United States, or in the District of Columbia; or (2) surplus line insurers named on a current list of such insurers issued and approved by the insurance regulatory authority of any State, Commonwealth, or Territory of the United States or of the District of Columbia.

§ 205.4 Filing of certificates of insurance and endorsements.

(a) Prior to the operation of any aircraft in air transportation, the operating air carrier shall file with the Board's Special Authorities Division, Bureau of Domestic Aviation, when the insured is a U.S. air carrier, or with the Board's Bureau of International Aviation when the insured is a foreign air carrier, a certificate of insurance or plan for self-insurance that meets the requirements of this part, to be effective not later than the starting date for air operations. Self-insurance plans shall also be filed with the Board's Bureau of Carrier Accounts and Audits.

(b) Endorsements that add previously unlisted aircraft or aircraft types or classes to coverage, or that delete listed aircraft, types, or classes from coverage, shall be filed with the Board's Special Authorities Division, Bureau of Domestic Aviation, when the insured is a U.S. air carrier, or with the Board's Bureau of International Aviation when the insured is a foreign air carrier, not more than 30 days after the effective date of the endorsement. Aircraft shall not be listed in the carrier's operations specifications with the FAA and shall not be operated, unless liability insurance coverage has been attached.

§ 205.5 Minimum coverage.

(a) All U.S. or foreign direct air carriers operating passenger or cargo service shall maintain public liability insurance for bodily injury to or death of persons other than passengers, and for damage to property, with a minimum coverage of $300,000 for any one person in any one occurrence, and a total of $20,000,000 per involved aircraft for each occurrence, except that carriers operating aircraft of not more than 60 seats or 18,000 pounds maximum payload capacity need only maintain coverage of $2,000,000 per involved aircraft for each occurrence.

(b) All U.S. or foreign direct air carriers carrying passengers in air transportation shall in addition to the coverage required in paragraph (a) maintain liability insurance for bodily

injury to or death of aircraft passengers or cargo handlers, with a minimum coverage of $300,000 for any one passenger or handler, and a total per involved aircraft for each occurrence of $300,000 times 75 percent of the number of passenger seats installed in the aircraft.

(c) In the case of comprehensive single-limit liability coverage, aircraft may be insured by a single policy or by a combination of primary and excess policies. Such policies or policy must have combined coverage equal to or greater than the required minimum coverages.

§ 205.6 Terms and conditions of coverage.

Liability insurance coverage shall meet the following minimum requirements:

(a) Insurance contracts and self-insurance plans shall provide for payment on behalf of the carrier, within the specified limits of liability, of all sums that the carrier shall become legally obligated to pay for bodily injury to or death of a person, or for damage to property of others resulting from the carrier's negligent operation or maintenance of aircraft in air transportation.

(b) The insurance shall cover all operations by the carrier in air transportation. The liability of the insurer shall not be subject to any exclusion because of violations by the carrier of any applicable safety or economic rule, regulation, order or other requirement legally imposed by any State, Federal, or foreign government agency, or of any State or Federal law. No special waiver or exemption issued by the FAA or the Board or a foreign government shall reduce liability coverage provided by the insurance policy or self-insurance plan.

(c) The liability of the insurer shall not contingent upon the financial condition, solvency, or freedom from bankruptcy of the carrier. The limits of the insurer's liability for the amounts required by this part shall apply separately to each occurrence. Any payment made under the policy because of any one occurrence shall not reduce the liability of the insurer for payment of other damages resulting from any other occurrence.

(d) Within the limits of liability required by this part, the insurer shall not be relieved from liability by any condition, warranty, or exclusion in the policy or any endorsement to the policy, or violation of the policy by the carrier, other than by the exclusions set forth in § 205.7 or other exclusions approved by the Board.

(e) The policy of insurance or self-insurance plan shall state that if any statute of any State, Commonwealth, Territory, or District of the United States so requires, the carrier designates the head of the insurance regulatory agency of that jurisdiction, or other officer specified for that purpose in the statute, as the air carrier's agent upon whom may be served process in any action arising out of the policy of insurance or self-insurance plan.

(f) With respect to certificates of insurance that list aircraft by FAA registration number, the policy of insurance shall state that, while an aircraft owned or leased by the carrier and declared in the policy is withdrawn from normal use because of its breakdown, repair, servicing, loss, or destruction, such insurance as is provided by the policy for that aircraft shall apply also to another aircraft of similar type, horsepower, and seating capacity, whether or not owned by the insured, while temporarily used as a substitute aircraft.

§ 205.7 Authorized exclusions of coverage.

Except for other exclusions specifically approved by the Board, a policy of insurance or self-insurance plan required by this part shall not contain any exclusion other than the following:

(a) Loss against which the carrier has other valid and collectible insurance. The coverage required under this part shall be available, however, in excess of the limits provided by such other insurance up to the limits in the carrier's certificate of insurance.

(b) Liability assumed by the carrier under any contract or agreement, unless the policy coverage would have attached to the carrier even in the absence of such contract or agreement. This exclusion shall not, however, include the carrier's waiver of liability limitations under the Warsaw Convention by the signing of a counterpart to the agreement of carriers (Agreement CAB 18900), as approved by Board Order E–23680, May 13, 1966), agreeing to a limit on the carrier's liability for injury or death of passengers of $75,000 per passenger, or any amendment or amendments to such agreement that may be approved by the Board and to which the carrier becomes a party.

(c) Bodily injury, sickness, disease, mental anguish, or death of any employee of the carrier while engaged in the duties of employment, or any obligation for which the carrier or any company as its insurer may be held liable under any workmen's compensation or occupational disease law;

(d) Loss of, or damage to, property owned, rented, occupied, or used by, or in the care, custody, or control of, the carrier, or carried in or on any aircraft with respect to which the insurance afforded by the policy applies;

(e) Personal injuries or death, or damage to, or destruction of, property, caused directly or indirectly by hostile or war-like action, including action in hindering, combating, or defending against any actual, impending, or expected attack by any government or sovereign power, de jure or de facto, or military, naval, or air forces, or by an agent of such government, power, authority, or forces; the discharge, explosion, or use of any weapon of war employing atomic fission or atomic fusion, or radioactive materials; insurrection, rebellion, revolution, civil war, or usurped power, including any action in hindering, combating, or defending against such an occurence; or confiscation by any government or public authority.

§ 205.8 Cancellation, withdrawal, modification, expiration, or replacement of insurance coverage.

Each policy of insurance shall specify that it shall remain in force, and may not be replaced, canceled, withdrawn, or in any way modified, to exclude any aircraft or reduce the extent of coverage, by the insurer or the carrier, nor expire by its own terms, until 10 days after written notice by the insurer (in the event of replacement, by the retiring insurer), describing the change, to the Board's Special Authorities Division, Bureau of Domestic Aviation, when the insured in a U.S. air carrier, or to the Board's Bureau of International Aviation when the insured is a foreign air carrier, (or, in the case of air taxi operators in Alaska, to the CAB Field Office, 701 C Street, Box 27 Anchorage, Alaska 99513), which 10-day notice period shall start to run from the date such notice is actually recieved at the Board. In the case of expiration by the policy's own terms, to be effective under this section a notice of nonrenewal by the insurer must be received not more than 30 days before the expiration date. For purposes of this part, a policy will not be considered to have expired if the same insurer renews its coverage without reduction in the extent of coverage or limits of liability, and without a break in coverage, whether or not a new policy is issued, and notice to the Board is not required in that event.

§ 205.9 Cargo liability disclosure statement.

Every U.S. or foreign direct air carrier providing air cargo service in air transportation shall give notice in writing to the shipper, when a shipment is accepted, of the extent of its cargo liability insurance, or the absence of such insurance, and the limits on the extent of its liability, if any. The notice shall be included clearly and conspicuously on all of its rate sheets and airwaybills, and on any other documents given to a shipper at the time of acceptance of a shipment.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Appendix A.—*Present Liability Insurance Requirements for U.S. Air Carriers and Permit Conditions for Foreign Air Carriers*

				Operators of all-cargo aircraft domestically (secs. 401 and 418)		
	Certificated route carriers	Charter air carriers	Air taxi operators	Small aircraft	Large aircraft	Foreign air carriers
1. Bodily injury to or death of passengers:						
(a) Each passenger	None	$75,000	$75,000	None	None	$75,000.
(b) Per occurrence	None	$75,000×75% of seats on aircraft.	$75,000×75% of seats on aircraft.	None	None	No specified limit.
2. Cargo	None	None	None	None	None—public disclosure of carrier's cargo liability insurance coverage or its absence.	None—public disclosure of carrier's cargo liability insurance coverage or its absence.
3. Bodily injury to or death of non-passengers:						
(a) Each person	None	$75,000	$75,000	$75,000	$500,000	
(b) Per occurrence	None	$500,000	$300,000	$300,000	$20,000,000	$1,000,000.
4. Loss of or damage to property (each occurrence).	None	$500,000	$100,000	$100,000	This is included in the comprehensive limit in 3(b) above.	This is included in the comprehensive limit in 3(b) above.

Appendix B.—*Proposed Liability Insurance Requirements*

	Large aircraft	Small aircraft
1. Bodily injury to or death of passengers:		
(a) Each passenger	$300,000	$300,000.
(b) Per occurrence	$300,000×75% of seats on the aircraft.	$300,000×75% of seats on the aircraft.
2. Cargo	None—public disclosure of carrier's cargo liability insurance coverage, or its absence, and the limits of the carrier's liability, if any.	None—public disclosure of carrier's cargo liability insurance coverage, or its absence, and the limits of the carrier's liability, if any.
3. Public (third party) liability: Bodily injury to or death of non-passengers, and loss of or damage to property:		
(a) Each person	$300,000	$300,000.
(b) Per occurrence	$20,000,000	$2,000,000.

Appendix C—*Standard Endorsement: Air Carrier Policies of Insurance for Aircraft Bodily Injury and Property Damage Liability*

[Proposed CAB Form 204–C]

The policy or self-insurance plan (hereinafter referred to as "policy") to which this endorsement is attached is hereby amended to assure compliance by the Named Insured with the provisions of Part 204 of the Economic Regulations of the Civil Aeronautics Board.

1. The Insurer hereby agrees to pay, within the limits of liability for coverages specified in the policy, all sums that the Named Insured shall become legally obligated to pay as damages for bodily injury to or death of persons or for loss of or damage to property of others, resulting from the Named Insured's negligent operation, maintenance, or use of aircraft in "air transportation" as that term is defined in the Federal Aviation Act of 1958. The limits of the Insurer's liability for the amounts specified in this policy shall apply separately to each occurrence. Any payment made under the policy because of any one occurrence shall not reduce the liability of the Insurer for payment of other damages resulting from any other occurrence. The liability of the Insurer is not contingent upon the financial condition, solvency, or freedom from bankruptcy of the Named Insured.

2. The Insurer also agrees that the attached policy shall remain in force, and cannot be replaced, cancelled, withdrawn, or in any way modified to exclude any aircraft or to reduce the extent of coverage, by the Insurer or the Insured, nor expire by its own terms, until ten (10) days after written notice by the Insurer (by the retiring Insurer, in the event of replacement) describing the change is received by the Board's Bureau of Domestic Aviation, Washington, D.C. 20428, when the Insured is a U.S. air carrier, or by the Board's Bureau of International Aviation, when the Insured is a foreign air carrier (or, in the case of air taxi operators in Alaska, to the CAB Field Office, Box 27, Anchorage, Alaska 99513), which 10-day notice period shall start to run from the date such notice is actually received at the Board. In addition, with respect to expiration by the policy's own terms, the Insurer agrees that to be effective the notice to the Board of nonrenewal must be received not more than 30 days before the expiration date.

3. The Insurer further agrees that, within the limits of liability for coverages specified in the policy, the Insurer shall not be relieved from liability with respect to bodily injury or property damage by any condition, warranty, or exclusion in the policy or any endorsement to the policy, or violation of the policy by the Named Insured, other than by the exclusions contained in this endorsement or other exclusions approved by the Board. In this connection, the Insurer expressly agrees that no violation by the Named Insured of any safety or economic rule, regulation, order, or other legally imposed requirement of any State or of the Federal Aviation Administration or the Civil Aeronautics Board or a foreign government, and no special waiver or exemption issued by the Federal Aviation Administration or the Civil Aeronautics Board or a foreign government

shall affect the liability coverage afforded under this policy.

4. The Insurer further agrees that, while an aircraft owned by the named Insured and declared in this policy, is withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction, such insurance as is provided by this policy for that aircraft applies also with respect to another aircraft of similar type, horse-power, and seating or payload capacity, whether or not owned by the Insured, while temporarily used as the substitute for such aircraft.

5. The Insurer further agrees that if any statute of any State, Commonwealth, Territory, or District of the United States so requires, the head of the insurance regulatory agency of that jurisdiction, or other officer specified for that purpose in the statute, is designated as the Insured's agent upon whom may be served process in any action arising out of the coverage afforded by this policy.

6. The Exclusions of the policy to which this endorsement is attached are deleted and are replaced by the following exclusions:

"Exclusions: Unless otherwise provided in the policy of insurance, the liability insurance afforded under this policy shall *not* apply to:

(a) Any loss against which the Named Insured has other valid and collectible insurance, except that the limits of liability provided under this policy shall be in excess of the limits provided by such other valid and collectible insurance up to the limits expressed elsewhere in this policy;

(b) Liability assumed by the Named Insured under any contract or agreement, unless such liability would have attached to the Insured even in the absence of such contract or agreement. This exclusion shall not, however, apply to the Named Insured's waiver of liability limitations under the Warsaw Convention by signing a counterpart to the agreement of carriers (Agreement CAB 18900), as approved by Board Order E–23680, May 13, 1966, agreeing to a limit on the Insured's liability for injury or death of passengers of $75,000 per passenger, or any amendment or amendments to such agreement which may be approved by the Board and to which the Named Insured becomes a party;

(c) Bodily injury, sickness, disease, mental anguish or death of any employee of the Named Insured while engaged in the duties of his employment, or any obligation for which the Named Insured or any company as his insurer may be held liable under any workmen's compensation or occupational disease law;

(d) Loss of or damage to property owned, rented, occupied or used by, or in the care, custody or control of the Named Insured, or carried in or on any aircraft with respect to which the insurance afforded by this policy applies;

(e) Personal injuries or death, or damage to or destruction of property, caused directly or indirectly, by hostile or warlike action, including action in hindering, combating or defending against an actual, impending or expected attack by any government or sovereign power, *de jure* or *de facto*, or military, naval, or air forces, or by any agent of such government, power, authority or forces; the discharge, explosion or use of any weapon of war employing atomic fission or atomic fusion or radioactive materials, insurrection, rebellion, revolution, civil war or usurped power, including any action in hindering, combating, or defending against such an occurrence; or confiscation by any government or public authority;

7. Any exclusions, conditions or provisions of this endorsement that have the effect of restricting or nullifying the coverage granted by this policy in the absence of this endorsement shall not apply.

Attached to and forming part of Policy NO(s). ————.

Issued by: ————

To: ————

Date: ————

By: ————

(Authorized Representative of Insurer)

BILLING CODE 6320-01-M

Proposed CAB Form 204-A

Appendix D

CERTIFICATE OF INSURANCE

U.S. AIR CARRIER POLICIES OF INSURANCE FOR AIRCRAFT BODILY INJURY AND PROPERTY DAMAGE LIABILITY

THIS CERTIFIES THAT:

_____(Insurer)
(Name and address of Insurer)

has issued a policy or policies of Aircraft Liability Insurance to _____ (Name and address of Insured Air Carrier)

_____(Named Insured)

effective from _____ until ten (10) days after written notice from the Insurer of the intent to terminate coverage is received by the Civil Aeronautics Board.

1. The Insurer (check one):

☐ is licensed to issue aircraft insurance policies; or

☐ is an approved surplus line insurer, in the State(s) of _____

2. The Insurer assumes, under the policy or policies listed below, aircraft liability insured to minimums at least equal to the following during operation, maintenance or use of aircraft in "air transportation" as that term is defined in the Federal Aviation Act of 1958 (complete either section a or b below):

a. The aircraft covered by this policy are SMALL AIRCRAFT (i.e., with 60 or fewer seats or with a maximum payload capacity of 18,000 pounds or less) (check separate or combined coverage as appropriate):

☐ Separate coverages:

Policy No.	Type of Liability	Minimum Limit	
		Each person	Each occurrence
	Combined Bodily Injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$2,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

b. The aircraft covered by this policy are LARGE AIRCRAFT (i.e., with more than 60 seats or with a maximum payload capacity of more than 18,000 pounds) (check separate or combined coverage as appropriate):

Policy No.	Type of Liability	Minimum Limit	
		Each person	Each occurrence
	Combined Bodily injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$20,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

3. The policy or policies listed in this certificate insure (check one):

☐ Operations conducted with the following types of aircraft:

☐ Operations conducted with the following aircraft:

FAA Registration	Manufacturer's Type	FAA Registration	Manufacturer's Type

4. Each policy listed in this certificate has been amended by attachment of a Standard Endorsement Form (CAB Form 204-C).

_____
(Name of Insurer)

_____
(Name of Broker, if applicable)

_____
(Address of Broker)

Date: _____ By: _____
(Officer, or authorized representative of insurer or broker)

Proposed CAB Form 204-B

Appendix E

CERTIFICATE OF INSURANCE

FOREIGN AIR CARRIER POLICIES OF INSURANCE FOR AIRCRAFT BODILY INJURY AND PROPERTY DAMAGE LIABILITY

THIS CERTIFIES THAT:

_____(Insurer)

(Name and address of Insurer)

has issued a policy or policies of Aircraft Liability Insurance to _____ (Name and

_____

address of Insured Foreign Air Carrier

_____(Named Insured)

effective from _____until ten (10) days after written notice from the Insurer of the intent to terminate coverage is received by the Civil Aeronautics Board.

1. The Insurer (check one):

☐ is licensed to issue aircraft insurance policies; or

☐ is an approved surplus line insurer, in the State(s) of _____

2. The Insurer assumes, under the policy or policies listed below, aircraft liability insured to minimums at least equal to the following during operation, maintenance or use of aircraft in "air transportation" as that term is defined in the Federal Aviation Act of 1958 (complete either section a or b below):

a. The aircraft covered by this policy are SMALL AIRCRAFT (i.e., with 60 or fewer seats or with a maximum payload capacity of 18,000 pounds or less) (check separate or combined coverage as appropriate):

☐ Separate coverages:

Policy No.	Type of Liability	Minimum Limit Each person	Minimum Limit Each occurrence
	Combined Bodily Injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$2,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

b. The aircraft covered by this policy are LARGE AIRCRAFT (i.e., with more than 60 seats or with a maximum payload capacity of more than 18,000 pounds) (check separate or combined coverage as appropriate):

Policy No.	Type of Liability	Minimum Limit Each person	Minimum Limit Each occurrence
	Combined Bodily injury (Excluding Passengers other than cargo attendants) and Property Damage Liability	$300,000	$20,000,000
	Passenger Bodily Injury Liability	$300,000	$ 300,000 x 75% of total number of passenger seats installed in the aircraft.

☐ Combined coverage:

This combined coverage is a single limit of liability for each occurrence at least equal to the required minimums stated above for bodily injury excluding passengers, passenger bodily injury, and property damage.

Policy No. _____ Amount of Coverage _____

☐ This policy covers CARGO operations only and excludes passenger liability insurance.

3. The policy or policies listed in this certificate insure (check one):

☐ Operations conducted with the following types of aircraft:

☐ Operations conducted with the following aircraft:

FAA or Foreign Flag Registration	Manufacturer's Type	FAA or Foreign Flag Registration	Manufacturer's Type

4. Each policy listed in this certificate has been amended by attachment of a Standard Endorsement Form (CAB Form 204-C).

_____
(Name of Insurer)

_____
(Name of Broker, if applicable)

_____
(Address of Broker)

Date: _____ By: _____
(Officer, or authorized representative of insurer or broker)

[FR Doc 80-3435 Filed 2-1-80; 8:45 am]
BILLING CODE 6320-01-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, and 274

[Release Nos. 33-6183, IC-11028]

"Money Market" Funds; Inclusion of a Standardized Yield Computation in Prospectuses

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is soliciting comment concerning a proposed amendment to Form N-1, the registration form for open-end management investment companies, to require the inclusion of a standardized yield computation in the prospectuses of money market funds, and an amendment to Rule 434d to require money market funds to conform yield quotations used in Rule 434d advertisements to that standardized method. The Commission is also withdrawing a prior proposal relative to the standardization of money market fund yield quotations.

DATE: Comments must be received no later than April 7, 1980.

ADDRESS: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S7-821 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: Larry L. Greene, Esq. (202/272-2104) or Anthony A. Vertuno, Esq. (202/272-2107), Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing amendments to Form N-1 [17 CFR 239.15, 274.11] under the Securities Act of 1933 [15 U.S.C. 77a-77aa] ("Securities Act") and the Investment Company Act of 1940 [15 U.S.C. 80a-1—80a-52] ("Act") and Rule 434d [17 CFR 230.434d] under the Securities Act. The proposed amendments would require certain investment companies, usually referred to as "money market" funds, to include in their prospectuses a yield figure computed according to a standardized method and to compute any yield quotations used in Rule 434d advertisements according to that standardized method. The proposed method would produce an annualized yield figure based on the average daily net investment income received or accrued by a fund over a seven day period. The requirement for the yield computation would apply to any open-end investment company holding itself out to be a "money market fund" or having an investment policy calling for investment of a least 80 percent of its assets in debt securities maturing in thirteen months or less.[1]

Importance of Comparable Yield Quotations and Purpose of Proposed Amendment

The Commission believes that yield quotations are an important factor affecting an investor's decision concerning money market funds. In this regard, such funds appear to be marketed largely on the basis of liquidity and yield. This is in contrast to traditional equity funds, where an investor's judgment as to competing funds' potential for capital appreciation is likely to be more important than a comparison of stated yields.

Despite the importance of yield quotations to investors making investment decisions and to money market funds in marketing their shares, yields reported and quoted by money market funds are not computed on a standardized basis and thus, in many cases, are not comparable. This lack of comparability of yield quotations may have the potential for confusing and misleading investors. The problem is made more serious by the fact that the use of yield quotations by money market funds for promotional purposes appears to be increasing in light of the adoption of new Rule 434d [17 CFR 230.434d] under the Securities Act, which permits a new class of investment company advertisements in the form of "omitting" propectuses.

The proposed amendment to Form N-1 will, if adopted, ensure that investors are supplied with yield figures in money market fund prospectuses, and that these figures are calculated in such a way as to help investors make useful comparisons. Furthermore, since the proposed amendment to Rule 434d will, if adopted, require that yield figures presented by money market funds in Rule 434d advertisements be calculated in the same way as the figures in the full prospectus, the yield figures used in such advertisements will also be comparable.

Of course, even if a standard computation of yield is adopted, the extent to which yield quotations can properly be compared will be limited by other considerations. These considerations include the extent to which the fund using the quotations might have unusual characteristics with respect to the quality of its portfolio securities, or the average weighted maturity of its portfolio. It is the responsibility of the person issuing a regular prospectus or advertisement which includes yield figures to include such other information as may be necessary to make those figures not misleading. The Commission has previously made clear that it will normally not prescribe rules containing specific standards as to what is or is not misleading in investment company sales literature,[2] and in the amendments being proposed herein specific requirements as to additional information to be included in money market fund prospectuses or advertisements have been kept to a minimum. Rather, the proposed amendment focuses on the yield computation itself, concerning which definitive guidance seems appropriate in order to achieve standardization.

Different Methods of Computing Yield and Earlier Efforts of the Commission at Standardization

While the lack of comparability in money market fund yield quotations exists for a variety of reasons, the Commission believes that one of the most significant reasons is the fact that various funds use different methods of computing yield. Yield computations may differ in many ways, including the manner of treating unrealized appreciation or depreciation, the weighting factors (if any) used, and the expenses which are included in the calculation. For example, those funds which compute their net asset values on the basis of either amortized cost or "penny-rounding" do not normally reflect changes in the market value of their underlying portfolio securities either in their determination of net asset value per share or in their daily dividend. Other funds recognize unrealized changes in the value of portfolio securities but adjust the daily dividend to reflect such changes and maintain a constant net asset value per share. Still other funds reflect unrealized

[1] Except for the definition of "money market" fund contained in the general instructions to Form N-1R [17 CFR 249.330, 274.101], which is limited in its applicability to that form, the term "money market fund" is not defined in any statutes or Commission rules thereunder. However, money market funds are generally considered to be those open-end investment companies whose portfolios consist primarily of short-term debt obligations, usually referred to as "money market instruments." These funds generally strive to maintain a constant net asset value per share while offering a relatively high yield. Typically, they are designed to attract short-term investors who seek preservation, rather than appreciation, of capital, together with a high level of income.

[2] See Securities Act Release No. 6140 (October 26, 1979) [44 FR 64070 (November 6, 1979)].

appreciation or depreciation in portfolio security values in the determination of net asset value per share.

In addition, the computation of yield may be weighted, with respect to each portfolio security, for dollar value, time remaining to mautrity, both of these factors, or neither. Finally, the items of expense netted against income in computing yield may or may not include charges made directly to an investor's account.

In 1975, the Commission issued two releases relating, at least in part, to the problems created by this lack of uniformity in yield calculations. One release proposed the standardization of portfolio valuation of short term debt securities by registered investment companies, including money market funds, by use of the "mark-to-the-market" method of portfolio valuation,[3] and the other proposed the standardization of yield quotations by money market funds by use of the yield to average life ("YAL") method.[4]

At the time of the Commission's proposals, some funds were using the mark-to-the-market method to value their portfolios, while other were using the amortized cost method.[5] In Release 8757, relating to valuation, the Commission proposed that the mark-to-the-market method be used exclusively, because it was concerned that amortized cost valuation did not satisfy the requirements of the Act and the rules thereunder regarding valuaton of investment company assets.[6] In addition, the Commission considered it undesirable for some money market funds to use the amortized cost method while other were using the mark-to-the-market method, because this disparity in methods of valuation impaired the comparability of yield quotations, which are based in part on net asset value.

After consideration of the public comments, the Commission in 1977 issued an interpretive release stating its position that section 2(a)(41) of the Act and Rule 2a–4 thereunder required money market funds to value all debt securities with remaining maturities of more then 60 days, by the mark-to-the-market method.[7] In addition, the Commission stated in that release its view that the net asset value per share of a money market fund should be calculated with an accuracy of at least one-tenth of one percent (equivalent to the nearest one-tenth of a cent on a net asset value of $1.00).

Subsequent to this release, a number of money market funds filed applications under section 6(c) [15 U.S.C. 80a–6(c)] of the Act, seeking to use methods of valuing portfolio securities or computing net asset value per share which were at variance with that prescribed in the interpretive release. The Commission ordered hearings on the applications,[8] and thereafter some of the applications were granted pursuant to a settlement arrangement between the applicants and the Commission.[9] In substance, the settlement provided for the use, under certain conditions, of the "penny-rounding" method of calculating net asset value per share. The remaining applications were also granted by the Commission,[10] and permit the use, under certain conditions, of the amortized cost method of portfolio valuation.[11] The use of this method, like penny-rounding, results generally in a stable net asset value for $1.00 per share funds.

Because both penny-rounding net asset value computation and amortized cost valuation either round away or ignore the impact of market value changes on a fund's portfolio, the orders granting the applications incorporate certain conditions designed to alleviate any harmful effects upon shareholders of funds using those methods.[12]

At present, a large number of money market funds maintain a stable net asset value through the use of either the pennyrounding computation or amortized cost valuation. (Other funds, while complying with the procedures prescribed in Release 9786, may attempt to maintain a stable net asset value by adjusting the daily divided to reflect any appreciation or depreciation in the value of their portfolio securities.) Thus, while the Commission's efforts to standardize the valuation of portfolio securities and computation of net asset value per share by money market funds have not resulted in complete uniformity, as a practical matter a substantial degree of standardization has developed in the area of valuation and computation of net asset value.

Such uniformity has not, however, been achieved with respect to yield quotations. The Commission's proposal with respect to YAL provided, in substance, that whenever a money market fund reported a current yield on an investment in the fund by telephone, newspaper, or otherwise, such report would have to include a statement of yield on a "yield to average life" basis. The proposal defined "yield to average life" to mean the rate of return which would be received by shareholders in the company if all of the securities currently in the company's portfolio, valued at market, were held to maturity, redeemed at par value, and the proceeds distributed to the shareholders. The release included the formula according to which the YAL was to be computed. The YAL quotation would have to have been accompanied by the dollar-weighted average portfolio maturity of the fund, and have been bases on market values as of not more than one business day prior to the day the quotation was used. The proposal would have permitted the use of a historical yield in addition to the YAL quotation under certain conditions.

Most of the comment letters received expressed opposition to the Commission's proposal. The principal arguments against the proposal were that: (1) the YAL calculation was so complex that it would be expensive to calculate and would likely be misunderstood by investors; and (2) because money market fund's portfolios contain instruments maturing at different times and are continually being replaced, the forward-looking yield quotation produced by the YAL computation would never represent a yield actually to be realized by any

[3] Investment Company Act Release No. 8757 (April 15, 1975) [40 FR 18467 (April 28, 1975)].

[4] Investment Company Act Release No. 8816 (June 12, 1975) [40 FR 27492 (June 30, 1975)].

[5] A fund using the mark-to-the-market method obtains a "quote" on each instrument in its portfolio or on one of comparable quality from the issuer or a dealer. A fund using the amortized cost method values a security at its cost on the date of purchase.

[6] Section 2(a)(41) of the Act [15 U.S.C. 80a–2(a)(41)] and Rule 2a–4 [17 CFR 270.2a–4] under the Act, as here relevant, require that the assets of registered investment companies be valued (1) at market value, if quotations are readily available, or (2) if quotations are not readily available, at fair value as determined in good faith by the board of directors.

[7] Investment Company Act Release No. 9786 (May 31, 1977) [42 FR 28999 (June 7, 1977)].

[8] Investment Company Act Releases No. 10201 (April 12, 1978) [43 FR 16830 (April 20, 1978)] and 10366 (August 18, 1978) [43 FR 38143 (August 25, 1978)].

[9] Investment Company Act Release No. 10451 (October 26, 1978) [43 FR 51485 (November 3, 1978)].

[10] Investment Company Act Release No. 10824 (August 8, 1979).

[11] See Footnote 5, *supra*.

[12] For example, both amortized cost and penny-rounding funds must maintain an average weighted portfolio maturity of 120 days or less, must not purchase securities with maturities beyond a year, and must maintain a portfolio with a specified quality.

In addition, funds using amortized cost valuation are required, among other things, to adopt procedures whereby the board of directors review the portfolio from time to time to determine the extent of any deviation of the net asset value per share (as determined by using available market quotations) from the $1.00 per share figure resulting from the use of the amortized cost method. If the deviation exceeds ½ of one percent and the board considers that that deviation may result in material dilution or other unfair results to investors or shareholderrs, it must take action to prevent the results by either marking to market or taking other steps to bring the fund's net asset value, when considered in light of available market quotations, within acceptable limits.

investor. It was argued that the figure could thus be misleading to investors, who might interpret it as a projection of future return. The Commission has taken no further action on the YAL proposal until now.

No-Action Request of the Investment Company Institute

By letter of November 6, 1979, the Investment Company Institute ("Institute") requested that the Commission's Division of Investment Management advise the Institute that it would not recommend enforcement action with respect to money market fund advertisements and prospectuses which contained yield quotations computed in accordance with a method described by the Institute, and which contained certain accompanying textual disclosures relative to yield.[13]

In substance, the Institute's no-action request involved the use of an annualized historical yield based on a period of seven calendar days. The yield would be calculated by dividing the average daily net investment income per share earned by the fund (that is, accrued interest income plus or minus amortized purchase discount or premium, less all accrued expenses) during the seven calendar day period, by the fund's average daily price per share over the same period and multiplying the result by 365, i.e.,

$$\frac{\text{average daily net investment income per share}}{\text{average daily net asset value per share}} \times 365 = \text{Yield.}[14]$$

The resulting yield figure would be carried to at least the nearest hundredth of one percent. Net investment income would not include either realized gains and losses or unrealized appreciation and depreciation, but the average price per share would include any changes in net asset value during the seven day period. Any fees charged directly to shareholder accounts, such as fixed monthly sharedholder service fees, would be included in the accrued expenses of the fund.

In its response to the Institute's letter, the staff stated that it would not recommend enforcement action if money market funds conformed their computations of yield to the method described by the Institute. However, consistent with previously expressed Commission policy,[15] the staff did not express any opinion as to the adequacy of the textual disclosure suggested by the Institute to accompany the yield quotations.[16]

The Commission's Proposal

The Commission has considered the method of computing current yield set forth in the Institute's no-action request, and believes that use of that method might be more appropriate for achieving standardization of yield quotations than the YAL method previously proposed by the Commission. Specifically, the Commission believes that the historical yield figures suggested by the Institute might be more easily understood by investors, and might be more easily verifiable, than the forward-looking yield figures which would have been required under the YAL proposal. Using a seven day base period for the yield computation, rather than basing the computation on the values of portfolio securities determined on one particular day, would seem to make the yield figure less likely to be affected by aberrant changes in portifolio values, and less susceptible to manipulation. Moreover, the treatment of expenses, charges to shareholders' accounts, and capital changes suggested by the Institute appears consistent with assumptions which might be made by many investors.

In light to these considerations and the seeming need for standardization in this area, the Commission is proposing to amend Form N-1, the registration form for open-end management investment companies, by adding a new Item 3A to require money market funds, to include in their regular prospectuses: (1) a yield quotation based on the seven days ended on the date of the most recent balance sheet or statement of assets and liabilities included in the prospectus, and computed according to the Institute's recommended method as described above; and (2) a description of the method of yield computation. In addition, because the proposed standardized yield computation is based on certain assumptions as to operational and accounting practices, the instruction to the item would require funds whose practices differ in certain respects to make disclosure relating thereto. The proposed form amendment would apply to any open-end investment company holding itself out to be a "money market fund" or having an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in thirteen months or less.

In connection with its proposal to require the inclusion of yield quotations computed on a standardized basis in money market fund prospectuses, the Commission is also proposing two other amendments, one of which concerns the placement in the prospectus of the proposed mandatory yield figures, and the other of which concerns yield information which money market funds might choose to place in advertisements under Rule 434d.

As indicated earlier, the Commission believes that yield information is particularly important with respect to money market funds, in light of the fact that potential investors are likely to use a comparison of yield quotations as a primary basis for arriving at an investment decision. For this reason, it seems that the yield information required by proposed Item 3A should be placed near the beginning of the prospectus, in order to increase its visibility and utility to investors. In addition, because yield information relates to fund performance, it is closely related to the information presented in the per share table required by Item 3 of Form N-1. Therefore, the Commission is

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[13] *Investment Company Institute*, available November 16, 1979. By its terms the Institute's recommendations were limited to the presentation of yield quotations by a mutual fund at least 80% of whose portfolio consists, at the time of the calculation, of money market instruments having a maturity of thirteen months or less.

[14] The computations resulting from this formula can be illustrated by the following example. The assumed figures are on a per share basis:

Average accrued interest income	$0.000234
Average amortization of discount	0.000141
Total	0.000375
Average expenses	0.000020
Average net investment income	0.000355

Assuming an average net asset value per share of $1.00 for the relevant seven day period, the yield would be computed as follows:

$$\frac{\$0.000355}{\$1.00} \times 365 = 0.1296. \text{ (Yield} = 12.96\%)$$

[15] See Note 2, *supra*, and accompanying text.

[16] The staff has also responded to another no-action request concerning use of yield quotations in investment company advertisements, *Dechert Price & Rhoads*, available November 19, 1979. That request sought the staff's views concerning publication by a fund of an advertisement under Rule 434d containing current figures relative to portfolio composition, performance or yield, where th company's Section 10(a) [15 U.S.C. 77j(a)] prospectus contains an explanation of the derivation of such figures, as well a any assumptions on which the calculations are based and any other explanatory material necessary to avoid misleading inferences, but where the specific figures used in the advertisement are based on updated financial information not contained in the Section 10(a) prospectus.

In its response, the staff indicated the view that use of current yield quotations would not constitute a violation of Rule 434d if (1) the company's Section 10(a) prospectus described the concepts of portfolio composition, performance, or yield that were used in the advertisement and (2) the current figures were based on facts which did not materially differ from those stated in the Section 10(a) prospectus.

proposing an amendment to the General Instructions to Form N-1 to provide that the information disclosed pursuant to proposed Item 3A must follow immediately the per share table of income and capital changes required by Item 3.

The Commission is also proposing an amendment of Rule 434d under the Securities Act. The amendment would require any yield figures used in advertisements of money market funds to be computed by the same method as that which would have to be used for computing the yield information required in proposed new Item 3A. By its terms, the proposed amendment to Form N-1 requires only that a standardized method for computing yield be used for purposes of supplying the yield information required under proposed new Item 3A. Therefore, in the absence of a requirement to compute advertised yields in the manner required for prospectuses by proposed Item 3A, money market funds might arguably be free to compute advertised yields by non-standard methods so long as the "substance" of the yield advertisement is contained in the section 10(a) prospectus.

The proposed amendment to Rule 434d would protect against the lack of comparability in advertised yields which could result from such a practice. Yield information contained in a Rule 434d advertisement would not necessarily have to relate to the same seven-day period as the yield information supplied in the full prospectus,[17] but the amendment would require Registrants to specify in the advertisement the period for which yield is quoted.

It should be noted that the specific proposed requirements relative to textual disclosure which may accompany yield figures are limited to an instruction to the proposed form item relating to an aspect of the computation of the yield figure and a requirement in the rule amendment concerning identification of the period used for the computation. The absence of more comprehensive requirements, however, in no way relieves persons using yield quotations from their responsibility to make whatever disclosure is necessary to make such quotations not misleading, whether the quotations are used in a prospectus meeting the requirements of section 10(a) of the Securities Act [15 U.S.C. 77j(a)] or an "omitting" prospectus permitted under Rule 434d under the Securities Act. In this connection, the instructions to the form item will provide guidance for users of Rule 434d advertisements as well.

[17] See the *Dechert Price & Rhoads* letter, discussed in note 16, *supra*.

Withdrawal of Proposal

The Commission's proposal set forth in Release No. 8816 (June 12, 1975), [40 FR 27492], to require money market funds to use yield quotations based on the yield to average life method, is hereby withdrawn.

Text of the Proposed Amendments

The Commission proposes to amend Parts 239, 274 and 230 of Chapter II of Title 17 of the Code of Federal Regulation by revising Form N-1 as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By adding a new Subsection (3) to Section G. 1. a. of the General Instructions and by adding New Item 3A. to Form N-1 [§§ 239.15 and 274.11] to read as follows:

§ 239.15 Form N-1, for open-end management investment companies registered on Form N-8A.

§ 274.11 Form N-1, registration statement of open-end management investment companies.

* * * * *

General Instructions

* * * * *

G. * * *

1. * * *

a. * * *

(3) The disclosure required by Item 3A, when applicable, must follow immediately the information required by Item 3.

* * * * *

Item 3A. *Yield Quotations of Money Market Funds.* (Prospectus Only)

(a) For a registrant which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, furnish the following information:

(i) A yield quotation based on the seven days ended on the date of the most recent financial statements of the Registrant included in the prospectus, computed by dividing the Registrant's daily net investment income per share earned during such seven calendar day period by its average daily price per share for the same period and multiplying the result by 365, with the resulting yield figure carried to at least the nearest hundredth of one pecent; and

(ii) A description of the method by which the yield is computed.

(b) For purposes of the calculation required in subsection (a), above, Registrant's daily net investment income per share shall include its accrued interest income plus or minus amortized purchase discount or premium less accrued expenses, but shall not include realized gains and losses or unrealized appreciation and depreciation. For purposes of this computation, fées charged directly to shareholder accounts must be included in the accrued expenses of the fund, and the Registrant's average price per share must include any changes in net asset value during the seven day period.

Instructions: In connection with the presentation of the yield figure, the prospectus must disclose:

(1) if applicable, that the Registrant follows the practice of reflecting changes in portfolio values in its daily dividend, and

(2) if material, the net amount of any change in the yield figure which would result from:

(a) the inclusion in the determination of net investment income of realized gains or losses and unrealized appreciation or depreciation recognized by the Registrant but excluded from the computation pursuant to Item 3A(b).

(b) any change in net asset value during the period used for computing yield.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. By deleting the word "and" from the end of paragraph (a)(4) of § 230.434d, adding the word "and" to the end of paragraph (a)(5), and adding a new paragraph (a)(6), to provide as follows:

§ 230.434d Advertisement by an investment company as satisfying requirements of section 10.

(a) * * *

(4) It states, conspicuously, from whom a prospectus containing more complete information may be obtained and that an investor should read that prospectus carefully investing,

(5) It contains the statement required by section 230.433(b) when used prior to effectiveness of the company's registration statement, and

(6) In the case of an investment company which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in 13 months or less, any quotation of such company's yield contained in such advertisement is based on the method of computation prescribed in Item 3A of Form N-1, set forth in §§ 239.15 and 274.11 and identifies [the date of the last day in] the period used in computing that quotation.

(Sections 10 and 19(a) of the Securities Act [15 U.S.C. 77j and 77s(a)] and Section 38(a) of the Act [15 U.S.C. 80a-37(a)].)

By the Commission.

George A. Fitzsimmons,

Secretary.

Dated: January 28, 1980.

[FR Doc 80-3573 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1404-3]

Commonwealth of Virginia; Section 107—Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of virginia has revised its list of air quality attainment designations for one area within the State with respect to Ozone (O_3). The State has changed the designation for Smythe County from nonattainment of primary standards to attainment.

On August 28, 1979, the Commonwelath of Virginia submitted this revision to the Environmental Protection Agency, along with supporting information, for promulgation under Section 107(d) of the Clean Air Act.

EPA proposes to approve this change submitted by the Commonwealth of Virginia. The purpose of this notice is to solicit public comment on this proposed action. All other Section 107 designations for the Commonwealth of Virginia not discussed in this notice remain intact, 43 FR 40502 et seq.

DATE: Comments on the proposed designation change must be submitted on or before April 4, 1980.

ADDRESSES: Copies of the associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106.

Virginia State Air Pollution Control Board, Room 1106–Ninth Street Office Building, Richmond, Virginia 23219, ATTN: Mr. John M. Daniel, Jr.

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

All comments should be addressed to:

Mr. Howard R. Heim Jr., Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT:

Ms. Milagros DeLeon (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106, Phone: 215/597-9555.

SUPPLEMENTARY INFORMATION

Background

Section 107(d)(1) of the Clean Air Act (Act) requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by section 107(d)(2) of the Act. On March 3, 1978, the Administrator promulgated nonattainment designations for the Commonwealth of Virginia for Ozone (O_3), 44 FR 8962. These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and ammeded some of the original designations, 43 FR 40502. The Act also provides that a State from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the **Federal Register** on March 3, 1978, 43 FR 8962, September 11, 1978, 43 FR 40412 and September 12, 1978, 43 Fed. Reg. 40502. The Commonwealth of Virginia has revised its original designations list and on August 28, 1979, submitted these revisions to EPA.

Proposed O_3 Redesignation

The Commonwealth of virginia has revised the O_3 designation for Smythe County from nonattainment of primary O_3 standards to attainment. On February 8, 1979, the Administrator promulgated a revision to the National Ambient Air Quality Standards for Ozone, 44 FR 8202 et seq. Pursuant to this revision, the State submitted air quality data supporting a redesignation request from nonattainment status for Smythe County since the area had never experienced readings greater than 0.12 ppm. Therefore, EPA proposes to redesignate this area to "attainment" in accordance with Virginia's revision.

Submittal of Public Comments

The public is invited to comment on whether or not Smythe County area, currently a nonattainment area for the O_3 standards, should be redesignated as an attainment area.

All comments received on or before April 4, 1980 will be considered. However, until EPA actually promulgates a final redesignation changing the area to attainment, the requirement to submit a State Implementation Plan revision for Smythe County satisfying Part D of the 1977 Clean Air Act Amendment will continue to apply. All comments should be addressed to:

Mr. Howard R. Heim Jr., Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirement of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 107(d), 171(2), 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated: December 17, 1979.

A. R. Morris,

Acting Regional Administrator.

[FR Doc. 80-3595 Filed 2-1-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 179, 194, and 196

Graduate and Professional Study Fellowships and Institutional Grants; Public Service Education Program; and Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commissioner of Education amends the regulations for the Graduate and Professional Study Fellowships and Institutional Grants Program; Public Service Education Program; and the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program. The regulations are intended to increase the stipend amount to provide for cost of living increases that have occurred since the stipend amount was last determined. The regulations also stipulate the rate of the institutional allowance which is paid, in lieu of tuition and fees, to the institutions participating in the Graduate

and Professional Opportunities Fellowship Program.

DATES: Comments must be received on or before March 20, 1980.

ADDRESSES: Comments should be addressed to Dr. Donald N. Bigelow, Graduate Training Branch, Division of Training and Facilities, Bureau of Higher and Continuing Education, U.S. Office of Education (Room 3060, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Donald N. Bigelow, telephone: (202) 245–2347.

SUPPLEMENTARY INFORMATION: Title IX–B of the Higher Education Act, as amended provides fellowships for graduate study to persons from groups traditionally underrepresented in graduate and professional fields. Final regulations for this program were published in the **Federal Register** on March 6, 1978.

Title IX–C of the same Act provides graduate fellowships in the field of public service. Final regulations were published in the **Federal Register** on August 9, 1977.

Title IX–D of the Act provides graduate fellowships for needy and well qualified students to study in fields related to domestic mining and mineral and mineral fuel conservation. Final regulations were published in the **Federal Register** on August 3, 1977.

Invitation to Comment

Interested persons are invited to submit comments, suggestions, and recommendations to be considered before the final regulations are issued. Comments, suggestions, or recommendations may be sent to the address provided above.

Comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period in Room 3060, Regional Office Building No. 3, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except on Federal holidays.

(Catalog of Federal Domestic Assistance Nos. 13.580; 13.555; 13.567).

Dated: January 29, 1980.

William L. Smith,

U.S. Commissioner of Education.

PART 179—GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS AND INSTITUTIONAL GRANTS

Part 179 of Title 45 of the Code of Federal Regulations is amended by revising § 179.50(a) and § 179.51 (a) and (b) to read as follows:

§ 179.50 Amount of the fellowship.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * *

§ 179.51 Institutional allowance.

(a) The institution of higher education at which the fellow is pursuing his or her course of study shall be paid $3,900 per 12 month period, except that any amount charged to and collected from the fellow by the institution as part of the fellow's instruction program shall be deducted from this amount. If the fellow is enrolled for less than 12 months the institution will be paid a pro rata share of the amount.

(b) Although the institutional allowance accrues on a monthly basis, the institution is entitled to claim one-half of this amount as soon as the fellow has been enrolled for two weeks. It is entitled to claim the remaining amount when the fellow has been enrolled for six and one-half months.

(20 U.S.C. 1134g(b))

* * * * *

PART 194—PUBLIC SERVICE EDUCATION PROGRAM

Part 194 of Title 45 of the Code of Federal Regulations is amended by revising § 194.27(a) to read as follows:

§ 194.27 Stipend.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * *

PART 196—DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION FELLOWSHIPS PROGRAM

Part 196 of Title 45 of the Code of Federal Regulations is amended by revising § 196.7(a) to read as follows:

§ 196.7 Stipend.

(a) The maximum stipend to any fellow is $4,500 for a 12 month year payable at the monthly rate of $375 for any period the fellow is enrolled in the program.

* * * * *

[FR Doc. 80–3578 Filed 2–1–80; 8:45 am]

BILLING CODE 4110–02–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 90 and 99

[Gen. Docket No. 80–7; RM–3059; RM–2726; and RM–2101; FCC 80–11]

Establishing a Disaster Radio Response Program in the Local Government Radion Service for States, Territories, and Possessions

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to reallocate frequencies and provide standards and requirements in the Local government Radio Service (Part 90) to allow states, territories, and possessions to develop disaster radio response communications systems. This new program is in response to requests and proposals that the Commission has received in a number of petitions for rulemaking. This new program will permit state agencies, territories, etc. to provide effective communications capability in civil disasters and emergencies.

DATES: Comments must be received on or before April 4, 1980 and Reply Comments must be received on or before May 5, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Richard Taube, Private Radio Bureau (202) 632–6497.

Adopted: January 16, 1980.

Released: January 25, 1980.

In the matter of amendment of Parts 2, 90, and 99 of the Commission's rules to establish a disaster radio response program in the Local Government Radio Service for States, Territories, and Possessions. Gen. Docket No. 80–7, RM–3059, RM–2726, RM–2101.

By the Commission:

1. The Commission proposes amending its Rules to provide for the development of a civil disaster response program by States, Territories, and Possessions. The program may be titled "Operation SECURE", and acronym for State Emergency Capability Using Radio Effectively.

Background

2. This program is intended to respond to requests and proposals that we have received in a number of petitions for rule making. One of the petitions (RM–3059) is from the Associated Public-Safety Communications Officers, Inc. (APCO). APCO presents a well

documented need for both a rules structure and frequency allocations that would permit state agencies to provide effective communications response capability in civil disasters and emergencies. APCO states:

> State agencies charged with direction, control and coordination of rescue efforts after floods, tornadoes, hurricanes, and other disasters are often called upon to operate them when all other communication systems in impacted areas are destroyed or swamped in panic and confusion... In these situations, the State Civil Preparedness Agency should be able to drop into the impacted area a civil preparedness employee with portable, battery-powered equipment operating in the single-side band mode on a high band frequency which can establish a direct reliable link with the state EOC (Emergency Operating Center)... Sufficient frequencies * * * would thus enable the establishment and maintenance of professional, coordinated relief efforts necessary to extend the maximum effective relief to victims of a civil disaster.... It is APCO's conclusion that a state agency, which by statute is given the commanding role in civil relief efforts, cannot perform its functions to maximum effectiveness with the radio frequency resources available in the FCC Rules.

3. The frequencies APCO suggests for this emergency response capability are the high frequency (HF) channels between 2 and 10 MHz. APCO regards these bands as "the best available resource" by virtue of their long-range propagational characteristics. APCO also suggests that a new radio service to be designated the "Civil Preparedness Radio Service" be established to accommodate these licensing requirements.

4. A second petition (RM–2776) of a very similar nature has been filed by the State of Florida Division of Disaster Preparedness. Florida also asserts the need noted by APCO to provide emergency response capability on a statewide basis and notes:

> Present radio systems for civil defense are Lo-Band VHF Local Government Radio and the Radio Amateur Civil Emergency Service * * *. State and Area Emergency Operating Centers must have a high reliability point-to-point system for maintaining proper State to Area coordination during emergency response periods. Our Petition for Rule Making is based upon point-to-point radio communication being essential for our intrastate emergency response.... The allocation of frequencies in the 2–3 MHz, 4–5 MHz, and 6.5–8 MHz spectrum to the Local Government Radio Service using A3J emission (single sideband radiotelephony) is essential for successful emergency response. The success of any emergency response action, whether it be man-made or natural, is dependent on ability to transmit and receive essential information relevant to the operation.

5. We are including for consideration a third petition that deals with these same general problems. This petition (RM–2101) was submitted a number of years ago by the Southern California Civil Defense and Disaster Association (SCCDDA) but here the petitioner requests the allocation of frequencies in the 26 MHz band to address disaster radio communication needs. Action was deferred in this petition pending the recent expansion and development of Personal Radio Service operations into the 26 MHz band for addressing the communication requirements involved. However, it now appears that the emphasis and advantages lie in development of response capability at 2 to 10 MHz and we are including this petition on the merits of the more broad-based issues with respect to providing a national disaster response radio capability.

6. The proposals in these petitions, particularly APCO's requests, received a great deal of support. (Attachment A lists parties who commented) Essentially, there was agreement that the capability for States to set up private operational fixed communication sites in disaster areas where other communication systems proved to be unavailable or inoperative is a realistic and important requirement. The comments also agreed that present allocations and the various standards for their use in civil emergencies are inadequate to meet long-range point-to-point communication requirements. As to numbers and selection of frequency bands for accommodating disaster communication requirements, there was some diversity in the suggestions. However, generally, most parties agreed that the necessary favorable long-range propagational characteristics of HF frequency bands between 2 and 10 MHz indicated that only channels of this range would be feasible.

Discussion

7. The Commission has looked very closely and critically at the problems and requirements under the present radio service rules and frequency allocation structure with respect to civil disaster radio capability. We recognize fully that one of our missions as emphasized in the Communications Act is the promotion of safety of life and property through the use of radio communications. Over the years, radio frequencies have been allocated on a priority basis for public agencies whose job is to protect life and property on a day-to-day basis. As a result, we have seen the development of first class public safety radio communication systems in most local areas.

8. By contrast, the picture for emergency preparedness for extended area disaster situations is not nearly as bright. Historically, a major problem has been that resources for emergency response capability have usually been provided to local communities for development of local area emergency response programs. It is only very recently that most States are providing planning and resources for first-line emergency response capability. Another problem is that little of the planning for disaster response has contemplated that frequencies will be dedicated for widespread emergencies. Instead, most plans provide that radio systems that are ordinarily used for other purposes are to be converted to emergency use only when a disaster occurs. Thus, broadcast stations under existing plans may become emergency broadcasters, and police, fire, utility, local government, taxicab, etc., systems become communication linkages for an emergency and disaster response effort only on an as-needed basis with little assurance that they can meet the requirements either in numbers of frequencies or in terms of operational dependability. The point is that with few exceptions frequencies are not allocated or used exclusively for civil disaster preparedness purposes and this has curtailed the development of reliable systems for those purposes.

9. In light of these factors, we agree with the appraisal of the petitioners and their arguments advocating that the situation must be changed. This is reinforced by the experiences we have had in recent years with large scale floods, hurricanes, and with accidents such as have occurred at nuclear energy sites that demand that our communications response capabilities be improved. To this end, the Commission proposes a rule making initiative that is designed to foster, through the use of two-way radio facilities, nationwide disaster response planning and capability.

10. The key to the success of the program lies in the development of a frequency complex and assignment structure that can allow states to respond to disaster emergency requirements at any time or place. This is a difficult proposition since the frequencies that are needed for this purpose are going to have to come from low-band channels at 2–10 MHz. Frequencies in this range are able to provide the distance coverage necessary for establishing contact between state emergency centers and disaster scenes. At the same time, operation in any one segment of the 2–10 MHz band will not

provide around-the-clock reliable capability for larger states where required transmittal distances could be hundreds of miles. There are also time-of-day factors which increase potential world-wide interference problems in this part of the spectrum. This is true because of the variations that occur in ionospheric propagation characteristics in different band segments. It is necessary, therefore, to have a complex of frequencies so as to accommodate these variations for operational dependability on a 24-hour basis.

The Proposals

11. With these factors in mind, we have examined the frequency structure and availability of channels at 2–10 MHz for private land mobile operations in disaster emergencies. We propose to reallocate or provide access to these frequencies to the extent feasible so that they may be used in the Local Government Radio Service (Part 90). The suggestion that a new radio service be established for these disaster communication requirements is not considered appropriate. Eligibility for necessary licensing is already provided in the Local Government Radio Service and it has been the Commission's policy to avoid proliferation of radio services. Eligibility for licensing would be limited to the fifty states, territories, and possessions. The development of disaster response capability at this level should solve the problems associated with the present fragmented approaches. Also, this licensing limitation should significantly simplify the development of programs and the operation of systems under area-wide plans that produce uniform and comprehensive coverage.

12. The first group of available frequencies is the total frequency complex available in the Disaster Communications Service (Part 99) and is just below the 2–10 MHz band. These frequencies are in the 1750–1800 kHz band.[1] For disaster radio, this band experiences significant propagational limitations which reduce effectiveness at long ranges. As a result, there are only about one dozen authorizations outstanding in the Disaster Communications Service. Nevertheless, we propose to retain these channels for the limited purposes that they can serve in disaster emergencies. The frequencies would be reallocated to the Local Government Radio Service as part of the emergency response program. However, the present authorizations would be "grandfathered" for an additional five-year license term. With this reallocation, the Disaster Communications Service would serve no further purpose and it is proposed to be deleted. Organizations of the type that are licensed in this radio service should be able to establish eligibility, if desired, as Disaster Relief Organizations for licensing in the Special Emergency Radio Service under Section 90.41 of the Commission's Rules.

13. A number of HF frequencies at 2–8 MHz are allotted to the Police Radio Service for mobile or fixed service use. These frequencies are allotted to police users for interzone radiotelegraphy operations, a use that no longer appears to be needed. A licensee survey shows that there are only eight police licensees—all in the fixed service—but they have been inactive for at least five years. Accordingly, we see no need for retaining these channels for this use and since they would add importantly to available spectrum at 2–8 MHz for the disaster response program, we are proposing that the following frequencies from this group be reallotted to the Local Government Radio Service for that purpose: 2323, 2326, 2411, 2414, 2419, 2422, 2463, 2466, 2471, 2474, 2801, 2804, 2808, 2812, 5132, 5135, 5140, 5192, 5195, 7477, 7480, 7802, 7805, 7932, and 7935 KHz.[2]

14. Six carrier frequencies from a reserved group at 2 MHz have been identified. These frequencies are presently unallotted and will also serve to accommodate requirements in a disaster response program. The frequencies proposed are 2439, 2487, 2511, 2535, 2569, and 2587 kHz.[3]

15. It is noted that APCO recommended that a total of ten frequencies be made available for assignment nationwide for disaster radio communications, out of which complex a licensee would select the number needed for its disaster communications system. As can be seen, we have proposed to allot many more than this number. This is because it appears to be unrealistic that ten frequencies can be found that are available at all locations nationwide. Further, there are many long-standing national and international commitments to the use of HF spectrum which can impact significantly on many, if not all, of the proposed frequencies. In addition, the results reached at the 1979 World Administrative Radio Conference* in Geneva, Switzerland, will affect access to high frequency (HF) spectrum and could well effect the availability of the bands and frequencies we have proposed. It is, however, too early to understand the full implications of the Conference and of any allocation change that may become necessary domestically after the ratification process. Although, it is expected that the impact on the bands and the frequencies proposed will be minimal, the Commission does solicit comments on this matter.

16. For these same considerations, in adition to the indicated specified frequencies, we have looked at frequency bands at 2–10 MHz that may be viable for use in this program, as set forth in Part 2.106, Table of Frequency Allocations, of our rules. In the interest of enhancing the available spectrum for disaster response capability, we propose to permit access wherever feasible to these 2–10 MHz bands. At the present time, apparent appropriate frequency bands for use in land mobile operations are as follow: 2194–2495, 2505–2850, 3155–3400, 4000–4063, 4438–4650, 4750–4995, 5005–5450, 5730–5950, 6765–7000, 7300–8195, 9040–9500, and 9775–9995 kHz. In these bands, applicants would make selection of frequencies only where the use would not interfere with existing operations in the same or other radio services. Applicants for such channels would be required to submit with their applications an engineering study showing interference potential to and from existing users. These could include Federal government users[4] and non-government users as indicated on Attachment B which is an excerpt from the Part 2 Table of Frequency Allocations.

Further, the assignment of frequencies in those bands that are specifically allocated for fixed common carrier services use is subject to pre-emption by re-assignment for such common carrier use.

17. As can be seen, the thrust of the proposals for this program is to see developed a nationwide radio capability for response to disaster emergencies. We believe that a program of this nature is timely and is consistent with the emphasis on emergency preparedness as evidenced by the efforts in both the State and federal sectors which are consolidating and upgrading disaster response capabilities. For example, the

[1] These frequencies are shared for use in the Radiolocation Radio Service (Part 90). Operations in that service do not impact on Disaster Radio Service systems.

[2] These frequencies are being coordinated with the Interdepartment Radio Advisory Committee (IRAC) for any conflict between their proposed use and Federal government operations. On the basis of determinations by IRAC, it may be necessary to modify these frequency re-allotments to some extent when final action is taken in this proceeding.

[3] Ibid.

*Copies of the draft Final Acts are available for inspection at the FCC Library at 1919 M Street, N.W.

[4] For Federal government use which is generally "classified," the Commission would accomplish necessary coordination.

recent establishment of a "Plan for Nationwide use of the Emergency Broadcast System for State and Local Emergencies" developed by the Federal Communications Commission, the National Weather Service (NWS), the Defense Civil Preparedness Agency (DCPA), (DCPA is now part of the new Federal Emergency Management Agency), and the Commission's National Industry Advisory Committee (NIAC) is intended to organize and provide focus on Federal, state and local efforts to disseminate to the public warnings of possible or impending "short fuse" natural disasters or industrial hazards. This program has been successful and the EBS is being used by Governors, the NWS and state and local civil defense officials on an increasing basis. In consideration of these factors, the Commission considers it to be imperative that the use of spectrum allocated for this program be optimized to assure the reliability of the emergency radio response systems which are envisioned under this program. To these ends, we propose to include provisions that should help to promote spectrally-efficient systems that will cover all geographic locations comprehensively and effectively for the purposes of disaster emergency response. One important requirement proposed for these purposes is that the various applicant jurisdictions submit acceptable Emrgency Disaster Response Communications Plans with their applications. These plans would be required to be compatible with approved Emergency Broadcast Systems (EBS) planning or, in the absence of EBS plans, with approved State Communications Plans which deal with emergency broadcast requirements.

18. We recognize and take no issue with the likelihood that there will be as many variations as there are acceptable plans. Basically, however, we hope to see, as common denominators in any planning, standards which at least assure that all geographic sectors of a jurisdiction will be provided disaster radio coverage, that the radio equipment will be fully operable as demonstrated by adequate testing procedures, that the necessary site facilities and manpower resources are in place, and that required interface with surrounding jurisdictions has been accomplished.

19. Technical standards for use of the 2–10 MHz band frequencies are set forth in present rules provisions in Part 90. We propose to add a requirement that all systems employ single sideband (A3J) emission. Also, testing and technical standards for radio equipment to help to assure operability at all times would be included in rules adopted for accommodating this program.

20. Finally, since it would appear that the communications systems contemplated here would be operated only during emergencies and in training exercises, comments are invited on whether the same frequencies should also be made available for shared use by other non-essential purposes on a secondary basis. The comments should discuss fully any practical problems, and should identify the types of uses for which these frequencies should also be made available.

Conclusion

21. In consideration of the foregoing, the Commission concludes that it is in the public interest to initiate rule making that can provide effective radio capability in the Local Government Radio Service for response to disaster emergencies by state, territory and possession authorities. Essentially, amendment of the Commission's Rules would be effected as follows:

A. part 99 Disaster Communications Service, would be deleted.

B. Part 90, Local Government Radio Service, would be amended to establish a disaster response program. Frequencies for use in the program would include: 1750:1800 kHz channels re-allocated from the Disaster Communications Service; 25 channels between 2–8 MHz, re-allotted from the Police Radio Service; six frequencies allotted at 2 MHz from a reserve frequency group; access to unspecified frequencies in twelve 2–10 MHz bands as shown in Part 2, subject to the conditions specified in paragraph 16, above.

C. Eligibility for use of these frequencies would be limited to states, territories, and possessions.

D. Applications for use of these frequencies would require communications plans that are approved by the Commission.

22. Accordingly, the extent indicated herein, the petitions RM–3059, from the Associated Public-Safety Communications Officers, Inc., RM–2726, from the State of Florida Division of Disaster Preparedness, and RM–2101, from the Southern California Civil Defense and Disaster Association, ARE GRANTED, and Notice of Proposed Rule Making IS HEREBY ADOPTED TO AMEND Parts 2, 90 and 99 of the Commission's Rules to incorporate an emergency disaster response program as described herein in the Local Government Radio Service. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before April 4, 1980, and reply comments on or before May 5, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

23. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A.—Comments Received in RM–3059

Dorchester County, Md. Civil Defense and Disaster Preparedness Agency
Washington, D.C. Office of Emergency Preparedness
Nebraska, Military Dept., State Civil Defense Agency
Ohio Disaster Services Agency
Alaska Division of Emergency Services
Wicomico County, Md. Civil Defense and Disaster Preparedness Agency
Baltimore, Md. Office of Disaster Control and Civil Defense
Morgan County, W.V., Office of Emergency Services
Allegany County, Md. Civil Defense and Emergency Planning Agency
St. Louis County, Missouri, Office of Civil Preparedness
Maryland Civil Defense and Disaster Preparedness Agency
Wisconsin Division of Emergency Government
Vermont Department of Public Safety
Florida Department of Community Affairs
Iowa Office of Disaster Services
Indiana Department of Civil Defense
Puerto Rico Office of Civil Defense
Defense Civil Preparedness Agency, Central Falls, RI

Washington County, Md., Civil Defense and Disaster Preparedness Agency
Defense Civil Preparedness Agency, Lincoln, RI
Carroll County, Md., Civil Defense and Emergency Planning Agency
Central Falls, RI, Defense Civil Preparedness Agency
Washington County, Md. Civil Defense and Disaster Preparedness Agency
West Virginia Office of Emergency Services
Colorado Dept. of Military Affairs, Director of Disaster Emergency Services
U.S. Civil Defense Council
Johnston, R.I. Defense Civil Preparedness Agency
New Jersey Dept. of Defense
Frank R. Warden, Jr., Little Compton, R.I.
Marshall County, W. Vir. Office of Emergency Services
Kent County, Md., Civil Defense and Disaster Preparedness Agency
Caroline County, Md., Civil Defense and Disaster Preparedness Agency
Calvert County, Md., Civil Defense and Emergency Planning Agency
Florida Civil Defense Association
Worcester County, Md., Civil Defense and Disaster Preparedness Agency
Hawaii Office of Civil Defense
Hartford County, Md., Dept. of Disaster Preparedness and Civil Defense
Georgia Dept. of Defense, Civil Defense Division
Smyrna, Georgia Civil Defense Department
Rhode Island Defense Civil Preparedness Agency
Virginia Public Telecommunications Council
Elbert O'Keeffe, Hagerstown, Md.
U.S. Dept. of Defense
Montgomery County, Md., Office of Civil Defense and Emergency Planning
Anne Arundel County, Md., Office of Civil Defense
Howard County, Md., Office of Civil Defense
Baltimore County, Md., Bureau of Civil Defense
Washington Dept. of Emergency Services
Charles County, Md., Civil Defense and Disaster Preparedness Agency
Virginia State Office of Emergency Services
Mercer County, Pa. Civil Defense
County of Bucks, Pa., Council of Civil Defense
Luzerne County, Pa., Civil Defense Council
Clearfield County, Pa., Civil Defense
St. Mary's County, Md., Civil Defense and Disaster Preparedness Agency
Georgia Civil Defense Association

Reply Comments

Associated Public Safety Communications Officers, Inc. (APCO)

Comments Received in RM-2101

Riverside, California, Office of Disaster Preparedness

BILLING CODE 6712-01-M

APPENDIX B

(PART 2 frequency bands to be made available)

Worldwide		Region 2		United States		Federal Communications Commission				
Band (kHz)	Service	Band (kHz)	Service	Band (kHz)	Allocation	Band (kHz)	Service	Class of station	Frequency (kHz)	Nature of services (of stations)
1	2	3	4	5	6	7	8	9	10	11
2194–2300		2194–2300	FIXED. MOBILE.			2194–2495	FIXED. LAND MOBILE. MARITIME MOBILE. (NG19)	Base. Coast. Fixed. Land mobile. Ship.		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. MARITIME MOBILE. PUBLIC SAFETY.
2300–2495		2300–2495	FIXED. MOBILE. BROADCASTING. (202)							
2505–2625		2505–2625	FIXED. MOBILE.			2505–2850 (NG20)	FIXED. LAND MOBILE. MARITIME MOBILE.	Base. Coast. Fixed. Land mobile. Ship.		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. MARITIME MOBILE.
2625–2850		2625–2850	FIXED. MOBILE.						2638 2738 2804 2808 2812	Intership (telephony). (NG44) Do. PUBLIC SAFETY. Zone and interzone police. Do. Do.
3155–3200	FIXED. MOBILE except aeronautical mobile. (R)					3155–3200	FIXED. LAND MOBILE. MARITIME MOBILE.	Base. Coast. Fixed. Land mobile. Ship.		AERONAUTICAL FIXED. FIXED (in Alaska and Puerto Rico). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. MARITIME MOBILE. PUBLIC SAFETY.
3200–3230	FIXED. MOBILE except aeronautical mobile. (R) BROADCASTING. (202)					3200–3230 (NG20)	FIXED. LAND MOBILE. MARITIME MOBILE.	Base. Coast. Fixed. Land mobile. Ship.		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. MARITIME MOBILE. PUBLIC SAFETY.

Worldwide		Region 2		United States		Federal Communications Commission				
Band (kHz)	Service	Band (kHz)	Service	Band (kHz)	Allocation	Band (kHz)	Service	Class of station	Frequency (kHz)	Nature of services of stations
1	2	3	4	5	6	7	8	9	10	11
3230–3400	FIXED. MOBILE except aeronautical mobile. BROADCASTING. (202)					3230–3240 (US105)	FIXED. LAND MOBILE. MARITIME MOBILE.	Base. Coast. Fixed. Land mobile. Ship.		AERONAUTICAL FIXED. FIXED (in Alaska) INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. MARITIME MOBILE. PUBLIC SAFETY.
						3240–3400 (US105)	FIXED. LAND MOBILE. MARITIME MOBILE. MOBILE.	Base. Coast. Fixed. Land. Land mobile. Mobile. Ship.		AVIATION (flight test and aeronautical fixed only). FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. MARITIME MOBILE. PUBLIC SAFETY.
4000–4063	FIXED.					4000–4063	FIXED.	Fixed.		AERONAUTICAL FIXED. FIXED (in Alaska). INTERNATIONAL FIXED PUBLIC.
4438–4650		4438–4650	FIXED MOBILE except aeronautical mobile. (R)			4438–4650	FIXED. MOBILE.	Base. Fixed. Mobile.		AERONAUTICAL FIXED. FIXED (in Alaska). INDUSTRIAL. INTERNATIONAL FIXED PUBLIC.
4750–4850		4750–4850	FIXED. BROADCASTING. (202)			4750–4995	FIXED.	Fixed.		AERONAUTICAL FIXED. FIXED (in Alaska). INTERNATIONAL FIXED PUBLIC.
4850–4995	FIXED. LAND MOBILE. BROADCASTING. (202)									

Worldwide		Region 2		United States		Federal Communications Commission				
Band (kHz)	Service	Band (kHz)	Service	Band (kHz)	Allocation	Band (kHz)	Service	Class of station	Frequency (kHz)	Nature of services of stations
1	2	3	4	5	6	7	8	9	10	11
5005-5060	FIXED. BROADCASTING. (202)					5005-5450	FIXED.	Fixed.		AERONAUTICAL FIXED. FIXED (in Alaska). INTERNATIONAL FIXED PUBLIC. Zone and interzone police.
5060-5250	FIXED.									
5250-5450		5250-5450	FIXED. LAND MOBILE.							
5730-5950	FIXED.					5730-5950	FIXED.	Fixed.		AERONAUTICAL FIXED. FIXED (in Alaska). INTERNATIONAL FIXED PUBLIC.
6765-7000	FIXED.					6765-7000	FIXED.	Fixed.		AERONAUTICAL FIXED. FIXED (in Alaska). INTERNATIONAL FIXED PUBLIC.
7300-8195	FIXED.					7300-8195	FIXED.	Fixed.		AERONAUTICAL FIXED. FIXED (in Alaska). INTERNATIONAL FIXED PUBLIC. Zone and interzone police.
9040-9500	FIXED.					9040-9500	FIXED.	Fixed.		AERONAUTICAL FIXED. FIXED (in Alaska). INTERNATIONAL FIXED PUBLIC.
9775-9995	FIXED.					9775-9995	FIXED.	Fixed.		AERONAUTICAL FIXED. INTERNATIONAL FIXED PUBLIC.

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FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Agenda of Regulations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual Agenda.

SUMMARY: Pursuant to the Board's Statement of Policy Regarding Expanded Rulemaking Procedures, the Board anticipates having under consideration regulatory matters as indicated below during the period from February 4 through August 1, 1980.

DATE: Comments may be received any time during the next six months.

ADDRESS: Comments should be addressed to Theodore E. Allison, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: (A staff contact for each item is indicated with the regulatory description below.)

SUPPLEMENTARY INFORMATION: The Board's Semiannual Agenda is divided into three sections. Section I reports those regulatory matters from the Board's last Semiannual Agenda (August 2, 1979 through February 1, 1980) on which final action has been taken; Section II reports on regulatory matters that have been proposed, and will involve further Board consideration; and Section III reports regulatory matters the Board may consider during the next six months. A double asterisk in Sections II and III indicates those matters listed on the Board's previous Semiannual Agenda.

I. Regulatory Matters From the August 2, 1979 Through February 1, 1980 Semi-annual Agenda on Which Final Action Has Been Taken

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

1. E. (Electronic Fund Transfers)

Action taken. In May 1979, the Board issued for public comment sections of Regulation E to implement those provisions of the Electronic Fund Transfer Act that become effective on May 10, 1980. The proposals dealt with disclosure of terms and conditions of EFT services, documentation of transfers, error resolution procedures, and procedures of stopping payment of preauthorized transfers. In October 1979, the Board adopted certain provisions of Regulation E dealing with initial and subsequent disclosures, preauthorized transfers from a consumer's account, relation to state law, and administrative enforcement, among others (44 FR 59464, October 15, 1979). At that time the Board also published for further comment a revised proposal regarding error resolution procedures, documentation requirements, and miscellaneous other provisions. Based on the comments received, final rules implementing the remainder of the Act were adopted in January 1980.

Authority. Electronic Fund Transfer Act, 15 U.S.C. 1693b.

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs, (202–452–2412).

2. Rule writing required under Title XI (Right to Financial Privacy) of the Financial Institutions Regulatory and Interest Rate Control Act

Action taken. In September 1979, the Board adopted proposed Regulation S (Reimbursement to Financial Institutions for Assembling or Providing Financial Records) to implement Title XI which provides for reimbursement to financial institutions for reasonably necessary and direct costs incurred in providing customers' financial records to Federal agencies (44 FR 55812, September 28, 1979).

Authority. Right to Financial Privacy Act—Cost Reimbursement, 12 U.S.C. 3415.

Staff contact. MaryEllen A. Brown, Senior Counsel, Legal Division, (202–452–3608).

3. Initiatives required under Titles VIII (Correspondent Accounts) and IX (Disclosure of Material Facts) of the Financial Institutions Regulatory and Interest Rate Control Act

Action taken. In November 1979, the Board adopted proposed amendments to its Regulation O (Loans to Executive Officers, Directors and Principal Shareholders) to implement the prohibitions pertaining to insider loans involving correspondent banking relationships under Title VIII and the reporting requirements contained in Title IX which relate to loans of insiders at their own banks (44 FR 67973, November 28, 1979).

Authority. Correspondent Accounts and Disclosure of Material Facts, 12 U.S.C. 1817 and 1972.

Staff contact. Michael Bleier, Senior Counsel, Legal Division, (202–452–3721).

B. Actions Intended To Reduce Regulatory Burden or To Clarify Existing Regulations

1. Z (Truth in Lending)

Action taken. Based on responses to a wide range of questions published for comment in January 1979, the Board in July 1979, invited public comment on specific regulatory changes to Regulation Z that would clarify the computation and disclosure of the annual percentage rate (APR) and several other credit terms. In December 1979, the Board adopted amendments to Regulation Z together with revisions to Supplement I. The most important changes are: (1) adoption of a tolerance of ⅛ of 1 percentage point in either direction from the exact annual percentage rate, in place of the existing rounding rule; (2) adoption of simplified rules for treating minor payment schedule variations; and (3) expansion of the protection available to creditors who have relied in good faith on faulty calculation tools. Although the new rules are effective on January 10, 1980, creditors need not comply with the revised provisions until October 1, 1980, and may instead continue to operate under the previous rules in the interim (44 FR 77139, December 31, 1979).

Authority. Truth in Lending Act, 15 U.S.C. 1604 and 1606.

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs, (202–452–2412).

2. Rules of Practice for Formal Hearings

Action taken. In October 1979, the Board revised its Rules of Procedure for Formal Hearings to simplify and clarify the rules applicable to formal administrative hearings conducted pursuant to section 554 of the Administrative Procedure Act (44 FR 56685, October 2, 1979). The revision also expanded the coverage of the Rules to cover administrative proceedings required by certain provisions of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA). Pursuant to the authority of 5 U.S.C. 553, these proposals were not issued for public comment.

Authority. Federal Reserve Act, 12 U.S.C. 248(i).

Staff contact. James V. Mattingly, Assistant General Counsel, Legal Division (202–452–3430); Michael Bleier, Senior Counsel, Legal Division, (202–452–3721).

C. Other Regulatory Activity

1. D (Reserves of Member Banks)

Action taken. Following public comment on a proposed amendment to Regulation D to apply a 3 percent reserve requirement to member banks on certain borrowings from nonmember banks, other depository institutions and the United States Government and to certain repurchase agreements involving U.S. Government and agency securities, the Board in October 1979, adopted the

proposal in part when it imposed marginal reserve requirements on managed liabilities of institutions subject to reserve requirements (44 FR 60071, October 18, 1979).

Authority. Federal Reserve Act, 12 U.S.C. 461(a) and (b).

Staff contact. Gilbert T. Schwartz, Assistant General Counsel, Legal Division (202–452–3625).

2. E (Electronic Fund Transfers)

Action taken. In August 1979, the Board adopted an amendment to Regulation E to provide that written notice of loss or theft of an access device or possible unauthorized electronic fund transfers is effective at the time the consumer mails or otherwise sends the notice to the financial institution (44 FR 46432, August 8, 1979).

Authority. Electronic Fund Transfer Act, 15 U.S.C. 1693b.

Staff contact. Lynne B. Barr, Senior Attorney, Division of Consumer and Community Affairs, (202–452–2412).

3. H (Membership of State Banking Institutions in the Federal Reserve System)

Action taken. In June 1979, the Board adopted amendments to Regulation H to require that State member banks that effect certain securities transactions for customers provide confirmation and maintain records with respect to such transactions. At the same time the Board invited public comment on areas dealing with confirmation requirements as they apply to transactions in U.S. Government, federal agency and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. Government or federal agency obligations. Following review of the comments received, the Board in December 1979, adopted a final rule substantially similar to that adopted in June 1979 (44 FR 76481, December 27, 1979).

Authority. Federal Reserve Act, 12 U.S.C. 248(a) and (i), and 321. Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

Staff contact. Robert S. Plotkin, Assistant Director, Division of Banking Surpervision and Regulation, (202–452–2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation, (202–452–2717).

4. Z (Truth in Lending)

Action taken. In September 1979, the Board revoked an amendment and interpretation of Regulation Z which reduced the obligation of creditors to provide a right of recission for each transaction under open end accounts secured by consumer's residences (44 FR 55553, September 27, 1979). The revocation will be effective March 31, 1980.

Authority. Truth in Lending Act, 15, U.S.C. Section 1604.

Staff contact. Robert S. Plows, Assistant Director, Division of Consumer and Community Affairs, (202–452–3667).

II. Regulatory Matter That Have Been Proposed and Will Involve Further Board Consideration

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

*** * 1. D (Reserves of Member Banks) Q (Interest on Deposits)**

Action taken. In July 1979, the Board, pursuant to provisions of the International Banking Act (IBA), approved publishing for public comment proposed amendments to Regulations D and Q to make United States branches and agencies of foreign banks subject to reserve requirements and interest rate ceilings currently applicable to member banks (44 FR 44876, July 31, 1979). The Board's proposals to implement the provisions of IBA will facilitate the conduct of monetary policy and will promote fair competition by treating branches and agencies like member banks to the fullest extent possible. The Board will review the comments received on the draft amendments and is expected to take final action within the next six months.

Authority. International Banking Act, 12 U.S.C. 3105.

Staff contract. Edward C. Ettin, Deputy Staff Director, Office of Staff Director for Monetary and Financial Policy, (202–452–3762).

*** * 2. F (Securities of Member State Banks**

Action taken. In December 1979, the Board issued for public comment proposed amendments to certain portions of Reglation F concerning form and content of financial statements included in registration statements, annual reports and other periodic reports (44 FR 76551, December 27, 1979). These changes are required, in part, to make the Board's Regulation F substantially similar to regulations of the Securities and Exchange Commission. Concurrently, the proposed incorporation by reference of instructions for the preparation of supervisory financial reports is an undertaking to reduce the reporting burden of registrant banks. The Board will review the comments received on the draft amendments and is expected to take final action on the proposal during the next six months.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78(i).

Staff contract. Thomas A. Sidman, Assistant Director, Division of Banking Supervision and Regulation, (202–452–3503); Richard M. Whiting, Senior Attorney, Legal Division, (202–452–3779).

*** * 3. L (Management Official Interlocks)**

Action taken. In June 1979, the Board and the other Federal agencies supervising federally insured depository institutions adopted final regulations under the Depository Institutions Management Interlocks Act that prohibit certain management official interlocks between depository organizations (44 FR 42212, July 19, 1979). The Board and the other agencies at the same time proposed clarifying amendments to the final regulations (1) to define the term "representative or nominee" under the Act, (2) to add provisions regarding grandfather rights and changes in circumstances, and (3) to request comment on the issue whether a corporation is a management official under the Act. In addition the Board and the other agencies invited public comment on the final regulation; following review of the comments received on both the proposed amendments and the final regulation, the Board will determine during the next six months what further action should be taken.

Authority. Depository Institutions Management Interlocks Act, 12 U.S.C. 3207.

Staff contact. Bronwen Mason, Senior Attorney, Legal Division, (202–452–3564).

*** * 4. O (Loans to Executive Officers of Member Banks)**

Action taken. In February 1979, the Board adopted regulations to implement certain additional requirements imposed on loans by member banks to certain persons under the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (44 FR 12959, March 9, 1979). The additional requirements relate to loans by a member bank to executive officers, directors and principal shareholders of the member bank and of its holding company affiliates. At the same time the Board invited public comment on the final regulation; following review of the comments received, the Board will determine during the next six months whether further action should be taken.

Authority. Section 22(h) of the Federal Reserve Act, 12 U.S.C. 375b.

Staff contact. James V. Mattingly, Assistant General Counsel, Legal Division, (202–452–3430).

**** 5. T (Credit by Brokers and Dealers)**

Action taken. In December 1976, April 1977, and August 1979 the Board issued for public comment a proposed amendment to Regulation T to permit options specialists to both purchase and sell short stock underlying the options in which they specialize, with a 25 percent margin requirement (41 FR 55552, December 21, 1976, 42 FR 22894, May 5, 1977, and 44 FR 47775, August 15, 1979). The proposed amendment also recognizes exchange rules approved by the Securities and Exchange Commission which allow trading inputs and calls by specialists on their specialty stock, and provides comparable relief for such hedging activities. The Board will review the comments received on the draft amendments and is expected to take final action on the proposal during the next six months.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Laura Homer, Chief Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation (202–452–2781).

**** 6. Y (Bank Holding Companies Change in Bank Control)**

Action taken. In February 1979, the Board adopted regulations to implement the Change in Bank Control Act, under which any person seeking to acquire control of any insured bank or bank holding company must provide 60 days' prior written notice to the appropriate Federal banking agency. At the same time the Board invited public comment on the final regulations (44 FR 7229, February 6, 1979); following review of the comments received, the Board will determine whether further action should be taken.

Authority. Change in Bank Control Act of 1978, 12 U.S.C. 18176(j).

Staff contact. James McAfee, Senior Attorney, Legal Division, (202–452–3707); Jack M. Egertson, Assistant Director, Division of Banking Supervision and Regulation, (202–452–3408).

*** * 7. Proposal to be made part of the new Board regulation governing international banking operations (Regulations K, International Banking Operations)**

Action taken. Under the International Banking Act (IBA), the Board in November 1979 issued for public comment proposals relating to the selection of a "home State" by foreign banks with U.S. offices (44 FR 62903, November 1, 1979). The IBA provides for the determination of a foreign bank's "home State."

Criteria for determining a foreign bank's home State and procedures for changing the home State once it is determined require Board regulation. The Board will review the comments received on the draft proposals and is expected to take final action within the next six months.

Authority. International Banking Act of 1978, 12 U.S.C. 3101. Bank Holding Company Act, 12 U.S.C. 1844.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division (202–452–3269).

B. Actions Intended To Reduce Regulatory Burden or to Clarify Existing Regulations

**** 1. B (Equal Credit Opportunity)**

Action taken. In April 1979, the Board, in response to requests for clarification, requested public comment on how the specific rules of Regulation B should apply to various credit scoring practices (44 FR 23865, April 23, 1979). The Board will decide within the next six months what regulatory action appears appropriate.

Authority. Section 703(a) of the Equal Credit Opportunity Act, 15 U.S.C. 1691b(a).

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs (202–452–2412).

**** 2. B (Equal Credit Opportunity)**

Action taken. In October 1978 the Board proposed for comment several amendments to the regulation. In April of 1979 one of the proposals was adopted (44 FR 23813, April 23, 1979). The amendment clarified that persons who regularly refer consumers to creditors were subject to the general proscriptions against discrimination but were not subject to the mechanical and recordkeeping provisions of the regulation. Three proposals have yet to be acted upon. These proposals would extend record-keeping and adverse action notification requirements to business loans of under $100,000. Inquiries as to marital status of applicants would be prohibited in all business credit applications. It is expected that these matters will be considered by the Board during the next six months.

Authority. Equal Credit Opportunity Act, 15 U.S.C. 1691b.

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs, (202–452–2412).

**** 3. T (Credit By Brokers and Dealers)**

Action taken. In August 1979 the Board issued for public comment a proposed amendment to Regulation T to permit brokers and dealers to extend credit on fully paid for shares of open-end investment companies that are registered under the Investment Company Act of 1940. The amendment would remove the competitive disadvantage placed upon brokers and dealers as compared to banks and other lenders (44 FR 47776, August 15, 1979). Because of the restrictions contained in section 11(d)(1) of the Securities Exchange Act of 1934 a broker or dealer would not be permitted to extend credit on the initial purchase of such shares. The Board will review the comments received on the draft amendment and is expected to take final action on the proposal during the next six months.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Patsy Abelle, Senior Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, (202–452–2781).

****4. Y (Bank Holding Companies and Change in Bank Control)**

Action taken. Following a review of its policies toward foreign bank holding companies, in April 1979 the Board issued for public comment a change in the definition of "foreign bank holding company" for purposes of section 4(c)(9) of the Bank Holding Company Act and section 225.4(g) of Regulation Y (44 FR 24864, April 27, 1979). Under current regulations, foreign bank holding companies are afforded certain exemptions from the nonbanking prohibitions applicable to bank holding companies. The proposed rule would amend the definition of "foreign bank holding company" to include only those foreign organizations principally engaged in banking outside the United States. The Board will review the comments received on the proposed amendment and is expected to take final action during the next six months.

Authority. Bank Holding Company Act, 12 U.S.C. 1844. International Banking Act of 1978, 12 U.S.C. 3106.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division, (202–452–3269).

****5. Z (Truth in Lending)**

Action taken. In August 1978, the Board issued for public comment a

proposed interpretation of Regulation Z regarding an interest reduction on a time deposit used to secure a loan (43 FR 38849, August 31, 1978). Under Regulation Q, Interest on Deposits, the interest rate on a loan secured by a deposit must be at least 1% above the interest rate paid on the deposit. Where a state usury ceiling makes it necessary for a creditor to lower the interest on the deposit in order to maintain the rate differential required by Regulation Q, the proposed interpretation will require disclosure of the reduction, but the amount need not be included as part of the "finance charge." The Board is expected to take final action during the next six months.

Authority. Truth in Lending Act, 15 U.S.C. 1604.

Staff contact. Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs, (202–452–2412).

C. Other Regulatory Activity

****1. B (Equal Credit Opportunity)**

Action taken. In July 1978, the five Federal financial regulatory agencies—Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, and the Federal Reserve Board—issued for public comment proposed uniform guidelines for enforcement of the Equal Credit Opportunity and Fair Housing Acts (43 FR 29256, July 6, 1978). The guidelines specify the kind of corrective action a creditor will be required to take for violations of the more substantive provisions of the Equal Credit Opportunity Act (Regulation B) and the Fair Housing Act. Based on the comments received, the agencies are reviewing a revised draft and further action is expected within the next six months.

Authority. Equal Credit Opportunity Act, 15 U.S.C. 1691, *et seq.* Federal Deposit Insurance Act, 12 U.S.C. 1818(b).

Staff contact. Jerauld C. Kluckman, Associate Director, Division of Consumer and Community Affairs, (202–452–3401).

****2. H (Membership of State Banking Institutions in the Federal Reserve System)**

Action taken. In April 1977, the Board issued for public comment a proposal to amend Regulation H to prohibit State member banks from purchasing loans on improved real estate or mobile homes located in flood hazard areas if the property is not covered by flood insurance (42 FR 20815, April 22, 1977). This proposal was issued under the Flood Disaster Protection Act, as amended, which presently required flood insurance on improved real estate that secures a loan of the property is located in a flood hazard area of a community that participates in the National Flood Insurance Program. The comments received on the proposed amendments have been reviewed by staff, and it is expected that the Board will take final action during the next six months.

Authority. Flood Disaster Protection Act, 42 U.S.C. 4012a(b) and 4128.

Staff contact: Daniel Rhoads, Attorney, Legal Division, (202–452–3711).

*** *3. J (Collection of Checks and Other Items and Transfers of Funds)**

Action taken. In November 1979, the Board issued for public comment a proposed Subpart C to Regulation J. The purpose of proposed Subpart C is to set forth a system of rights and responsibilities governing the receipt and use of Federal Reserve electronic clearing and settlement services through automated clearing houses. At the present time individual agreements are in place with each of the 36 automated clearing house associations for which the Federal Reserve provides clearing and settlement services. This proposal is needed in view of the continuing increase in the volume of ACH transactions and the benefits that would be derived from the establishment of a uniform set of rules and responsibilities applicable to all participants in Federal Reserve ACH operations. The Board will review the comments received on the proposals and is expected to take final action within the next six months.

Authority. Federal Reserves Act, 12 U.S.C. 248(i)(j) and (o), 342 and 360.

Staff contact. Lee S. Adams, Senior Attorney, Legal Division, (202–452–3623).

*** *4. J (Collection of Checks and Other Items and Transfers of Funds)**

Action taken. In April 1979, the Board requested public comment on the handling by Federal Reserve Banks of payment instruments that are not payable on demand (44 FR 24929, April 27, 1979). After consideration of the comments received, the Board will consider issuing for public comment during the next six months an amendment to Regulation J dealing with the treatment by Federal Reserve Banks in their check collection procedures of such instruments. This proposal will be considered in view of a recent court case in the Commonwealth of Pennsylvania where State-chartered savings banks are authorized to issue to their depositors noninterest bearing negotiable orders of withdrawal (NINOWs). The Pennsylvania Supreme Court recently determined that these instruments are not payable on demand, and thus Regulation J needs to be amended if Reserve Banks are to continue to collect these as cash items.

Authority. Federal Reserve Act, 12 U.S.C. 248(i), 248(o), 342 and 360.

Staff contact. Lee S. Adams, Senior Attorney, Legal Division, (202–452–3623).

*** *5. Y (Bank Holding Companies and Change in Bank Control)**

Action taken. In March and May 1978, the Board issued for public comment proposals to amend its Regulation Y relating to permissible insurance activities for bank holding companies (43 FR 14970, April 10, 1978 and 43 FR 23588, May 31, 1978). These proposals would conform the regulation with the Federal court decision, *Alabama Association of Insurance Agents* v. *Board of Governors of the Federal Reserve System*, 553 F. 2d 224 (5th Cir. 1976), rehearing denied, 558 F. 2d 729 (1977), *cert.* denied 435 U.S. 904 (1978). In November 1979, the Board acted upon the latter of these proposals by amending Regulation Y so as to (1) permit, under certain circumstances, bank holding companies to engage in the activity of selling general insurance in towns with a population of 5,000 or less, and (2) prohibit bank holding companies from acting as general insurance agent in towns with inadequate insurance agency facilities (44 FR 65051, November 9, 1979). The Board will consider taking final action on the former of the two proposals during the next six months.

Authority. Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

Staff contact. Richard M. Whiting, Senior Attorney, Legal Division, (202–452–3779).

III. Regulatory Matters the Board May Consider During the Next 6 Months

A. Regulatory Actions Resulting From Recent Legislation, or From Regulatory Decisions of Other Federal Agencies

*** *1. AA (Unfair or Deceptive Acts and Practices)**

Anticipated action: The Board is required by the Federal Trade Commission Act, subject to certain exceptions, to adopt trade regulation rules applicable to banks that are substantially similar to those adopted by the FTC with regard to other creditors. The Board will consider issuing for public comment a new proposal to adopt a rule governing the preservation of consumers' claims and defenses (commonly known as the "creditor holder in due course rule") in response to a rule proposed by the FTC. The Board's rule was originally

proposed on February 17, 1976 (41 FR 7110, February 17, 1976) before Regulation AA was adopted; the Board would consider the revised proposal as an amendment to Regulation AA. This proposal would require the insertion in certain credit contracts of a notice preserving a consumer's claims and defenses against a seller of goods or services against all holders of the contract. It is expected that the FTC will consider its proposed creditor rule on or about March 15, 1980.

Authority. Section 18(f) of Federal Trade Commission Act, 15 U.S.C. 41 *et. seq.*

Staff contact. Dolores S. Smith, Section Chief; David A. Myers, Attorney, Division of Consumer and Community Affairs, (202–452–2412).

**** 2. Proposal to be made part of the new Board regulation governing international banking operations (Regulation K, International Banking Operations)**

Anticipated action. Under the International Banking Act (IBA) the Board will consider issuing for public comment proposals relating to the nonbanking activities of foreign bank holding companies. A pending rulemaking proceeding would redefine the term "foreign bank holding company" and, thus, affect the eligibility of foreign organizations for exemptions from the nonbanking prohibitions of the Bank Holding Company Act. The IBA provides an exemption from the nonbanking prohibitions of the Bank Holding Company Act for certain qualifying banks. This exemption would permit foreign bank holding companies and foreign banks to engage in certain nonbanking activities indirectly in the United States and will be the subject of further Board regulation.

Authority. International Banking Act of 1978, 12 U.S.C. 3101. Bank Holding Company Act, 12 U.S.C. 1844.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division, (202–452–3269).

B. Actions Intended To Reduce Regulatory Burden or To Clarify Existing Regulations

**** 1. K (International Banking Operations)**

Anticipated action. The Board will consider republishing for comment a proposal that would permit Edge Corporations to provide full banking services to a limited class of customers. Pursuant to the International Banking Act, a similar proposal was published for comment in February 1979, (44 FR 10509, February 21, 1979) to improve the competitive position of Edge Corporations.

Authority. International Banking Act of 1978, 12 U.S.C. 3101. Federal Reserve Act, 12 U.S.C. 601 and 615.

Staff contact. C. Keefe Hurley, Jr., Senior Counsel, Legal Division, (202–452–3269).

2. Q (Interest on Deposits)

Anticipated action. In response to a request from the public, the Board will consider issuing for public comment an amendment to Regulation Q (and Regulation D, Reserves of Member Banks) to increase the amount that business organizations may maintain in savings accounts at member banks from the present ceiling of $150,000. In considering this request, the Board will evaluate the potential effects such increases could have upon the conduct of monetary policy.

Authority. Federal Reserve Act, 12 U.S.C. 461(a) and (b) and 371b.

Staff contact. Gilbert T. Schwartz, Assistant General Counsel, Legal Division, (202–452–3625).

3. T (Credit by Brokers and Dealers)

Anticipated action. In response to requests from the New York Stock Exchange and the National Association of Securities Dealers, Inc., the Board will consider issuing for public comment proposed amendments to Regulation T regarding the time within which payment must be made for securities transactions in cash and margin accounts. The requested amendments would liberalize the time for payment provisions in the margin account and provide some flexibility to national securities exchanges or associations processing applications for extensions of time within which payment is due under the regulation.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Patsy Abelle, Senior Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, (202–452–2781).

****4. Rules Regarding Availability of Information**

Anticipated action. The Board will consider issuing for public comment certain amendments to its Rules Regarding Availability of Information in order to bring them into conformity with existing information disclosure law as it has developed since the regulation was last amended, and also in order to take advantage of the staff's experience working with the Freedom of Information Act.

Authority. Freedom of Information Act, 5 U.S.C. 552.

Staff contact. Stephen L. Siciliano, Senior Counsel, Legal Division (202–452 3920).

****5. Regulatory Improvement Project**

Anticipated action. The Board's Regulatory Improvement Project involves, among other things, a substantive, zero-base review of all Federal Reserve regulations that affect the public to determine (1) the fundamental objectives of the regulation and the extent to which it is meeting current policy goals, (2) nonregulatory alternatives that would accomplish the objectives, (3) costs and benefits of the regulation, (4) unnecessary burdens imposed by the regulation, and (5) the clarity of the regulation.

During the past six months, reviews were completed of Regulation O (Loans to Executive Officers, Directors, and Principal Shareholders), and of methods of computation and disclosure of annual percentage rates under Regulation Z (Truth in Lending). Also, public comment was requested on a redrafted version of Regulation J (Collection of Checks and Other Items and Transfers of Funds).

Over the next six months revisions likely to be considered by the Board will include, but are not necessarily limited to: G (Securities Credit by Persons Other than Banks, Brokers or Dealers), H (Membership of State Banking Institutions in the Federal Reserve System), I (Issue and Cancellation of Capital Stock of Federal Reserve Banks), J (Collection of Checks and Other Items and Transfers of Funds), N (Relations with Foreign Banks and Bankers), P (Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks), T (Credit by Brokers and Dealers), U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks), X (Rules Governing Borrowers Who Obtain Securities Credit), Y (Bank Holding Companies and Change in Bank Control), and Z (Truth in Lending). Requests for public comment on proposals concerning many of these regulations will be made over the coming six months.

Staff contact. Richard H. Puckett, Manager, Regulatory Improvement Project (202–452–3742).

C. Other Regulatory Activity

****1. H (Membership of State Banking Institutions in the Federal Reserve System)**

Anticipated action. The Board will consider issuing for public comment an

amendment to Regulation H to implement section 23(e) of the Securities Exchange Act of 1934 which authorizes Federal regulatory agencies to require a bank which exercises investment discretion with respect to an account to disclose its policies and practices with respect to commissions that will be paid for effecting securities transactions. The amendment would prescribe the manner and frequency of making such disclosures by State member banks. Similar regulations are expected to be considered by the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78b(e)(2).

Staff contact. Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation (202–452–2782); Robert A. Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation (202–452–2717).

**2. Q (Interest on Deposits)

Anticipated action. The Board has statutory authority to prohibit unfair or deceptive acts or practices engaged in by banks. The Board's staff currently is reviewing practices of banks that may be regarded as unfair or deceptive, including the failure to make adequate disclosure of account terms to depositors. This review will include consideration of whether additional regulation is necessary or advisable and consultation with the other financial regulatory agencies. The results of this review will be considered by the Board in determining whether it is appropriate to issue for public comment an amendment to its Regulation Q to require banks to make additional disclosures of account terms.

Authority. Federal Reserve Act, 12 U.S.C. 371b. Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

Staff contact. Anthony F. Cole, Senior Attorney, Legal Division, (202–452–3612); Dolores S. Smith, Section Chief, Division of Consumer and Community Affairs (202–452–2412).

3. T (Credit by Brokers and Dealers)

Anticipated action. In response to a request on behalf of a registered broker-dealer, the Board will consider whether it has the authority under the Securities Exchange Act of 1934 to amend Regulation T to permit the acceptance of bank depository receipts for gold by a broker or dealer to meet the margin requirements specified by the rule. The Board will also consider a possible amendment to section 220.6(j) of Regulation T regarding the use of foreign currency to meet margin requirements.

Authority. Securities Exchange Act of 1934, 15 U.S.C. 78g.

Staff contact. Laura Homer, Chief Attorney; Theodore W. Prush, Senior Securities Regulation Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation (202–452–2781).

Comments on this agenda should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, January 28, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-3422 Filed 2-1-80; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 720

Availability of Information; Public Observation of Board Meetings

AGENCY: National Credit Union Administration.

ACTION: Proposed Rule.

SUMMARY: In accordance with 5 U.S.C. 552b(g), the National Credit Union Administration proposes rules to implement the open meeting provisions of the Government in the Sunshine Act (5 U.S.C. 552b (b) through (f)). These rules will set forth the open meeting provisions which govern public observation of Board meetings and availability of information regarding the decisionmaking process of the Board.

DATES: Comments will be received until March 5, 1980.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Beatrix D. Fields, Attorney-Adviser, at the same address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION:

Applicability of the Sunshine Act

As the result of the establishment of a three member Board, the National Credit Union Administration (NCUA) became subject to the open meeting provisions of the "Government in the Sunshine Act" (Pub. L. 94–409, 5 U.S.C. 552b (b) to (f), hereinafter referred to as the "Sunshine Act" or the "Act") on September 4, 1979. Pending the promulgation of regulations to implement the Sunshine Act, the Board adopted, at its first scheduled meeting, an interim Sunshine Act policy statement to govern access to its deliberations and access to information regarding its decisionmaking process ("Sunshine Act Policy Statement"). The Sunshine Act Policy Statement was published and comments were encouraged (See 44 FR 70709, December 10, 1979).

The Sunshine Act requires that each agency promulgate regulations to implement the open meeting provisions of the Act. However, the Sunshine Act is silent as to the amount of time an agency newly subject to the Act has to promulgate regulations. Therefore, the National Credit Union Administration Board ("Board") decided to evaluate its experience under the interim Sunshine Act Policy Statement and evaluate comments received prior to developing Sunshine regulations. After considering the agency's operating experience and the public's comments, the Board has decided to adopt the interim Sunshine Act Policy Statement as its proposed regulations to implement the Act.

Special Features of the Proposed Sunshine Regulations

The proposed Sunshine Act regulations include additional provisions, beyond the requirements of the Act, to provide open access to the deliberations of the Board. Some of these features, briefly discussed below, refer to the use of cameras and audio equipment, the evaluation of public interest considerations, the decision to not adopt the expedited closing procedures, the provisions for a Sunshine mailing list and the keeping of open meeting records.

Public Observation. Though the Sunshine Act does not define "public observation" of Board meetings, public observation has been interpreted to include the ability to see and hear joint deliberations of the Board. However, both the Sunshine Act and its legislative history are silent as to whether public observation includes the ability to record such deliberations. In light of commentaries and studies on the Sunshine Act and comments on other agency regulations favoring the public recording of open meetings, the definition of public observation in the proposed regulations includes the ability to see, hear and record any open meeting. However, recordings by use of cameras or other electronic devices must be performed in an unobtrusive manner. Public observation does not allow public *participation* without prior Board approval.

Public Interest Consideration. The Sunshine Act requires that prior to closing the discussion of any matter the Board must determine first, whether there is an exemption available and second, whether the public interest requires that the matter be discussed in the open. Agency procedures have been proposed in §§ 720.43(b), 720.45(a) and 720.46 to assist the Board in adequately assessing the public interest. Section 720.43(b) proposes that the agency staff provide the Board with its recommendations on the public interest. Section 720.45(a) provides that the Board, in voting to close a meeting, will consider each agenda item separately. This will allow the Board to individually consider the public interest question for each agenda item. In addition, § 720.46 proposes that the public be given the opportunity to indicate to the Board its interest in observing the discussions of a matter otherwise scheduled to be heard in a closed meeting.

Use of the Expedited Closing Procedure. The two methods provided by the Sunshine Act for closing a meeting are the regular and the expedited procedures. The expedited procedure may only be used by an agency if the majority of its meetings could properly be closed under Sunshine Act exemptions 4, 8, 9(A) and 10, and if a rule is promulgated to provide for this procedure. The expedited procedure was provided in the Sunshine Act for those agencies that regulate financial institutions (including credit unions), securities, commodities, etc. and who would conduct business in private or on short notice. The expedited procedure does not require advance notice for closed meetings.

The interim Sunshine Act Policy Statement did not provide for the use of the expedited procedure. However, at the time the Policy Statement was adopted, the Board indicated that it would reconsider the need for the using this procedure. After evaluating its interim experience operating under the Policy Statement, it was determined that a majority of the Board's meetings were properly closed pursuant to the specified expedited exemptions. However, the Board has determined that the public benefits of not using the expedited procedure (i.e., seven days advance notice of all closed meetings) outweigh any internal procedural burdens inherent in not using the procedure. Further, the Board has determined that the lack of expedited closing procedures has not led to an abuse of the use of emergency meetings. Therefore, in keeping with the spirit of openness, the Board has decided not to adopt the expedited closing procedure.

Sunshine Mailing List. The Sunshine Act requires that at least one week advance notice be given of a meeting. NCUA has done this by posting notices in its Washington, D.C. headquarters and by publishing notices in the **Federal Register**. However, not all interested parties have access to these sources. Therefore, the proposed regulation establishes a Sunshine Act mailing list (§ 720.44(g)). This mailing list also provides a means for eliminating the public inconvenience associated with cancelled and postponed meetings. It is anticipated that those persons who regularly come to Board meetings would be included on the mailing list and could become aware of meeting cancellations and postponements. One may be placed on the mailing list by written or oral request to the Secretary of the Board.

Recordkeeping for open meetings. The Sunshine Act does not impose any recordkeeping requirements for deliberations at open meetings. However, the proposed regulation will require that open meetings be recorded and that the recordings be publicly available for at least three months following an open meeting. Thus, those persons unable to observe a meeting have the opportunity to hear a recording of the meeting. In addition, those persons who attended a meeting have the opportunity to more closely study Board deliberations on a matter of interest.

Comments on Interim Policy Statement

Only one comment letter was received on the interim Policy Statement. The recommendations suggested are discussed below.

First, in reference to the meeting exception for notation voting (see § 720.41(d)(3)), the commenter recommended the agency specify that the results of notation voting would be made available to the public "at or prior to the next open meeting of the Board." Under notation voting, action is taken once the Board members' votes are tallied. The voting sheets are publicly available as soon as the votes are tallied. To specify that the voting sheets would be available at or prior to a Board meeting is unnecessary and could justify a delay until the next meeting.

Secondly, it was recommended that § 720.44(e) be amended to indicate that meeting notices be communicated in a timely fashion to "any and all parties who have submitted written request" for Board meeting notices. To the extent practicable, the agency will give timely notice and has provided a mailing list in § 720.44(g) for this purpose. However, in some instances where it is impossible to given timely notice, methods other than the use a mailing list will be utilized to disseminate meeting notices. One may be placed on the mailing list by written or oral request to the Secretary of the Board.

The third recommendation refers to the statutory right of any person whose interests are directly affected by certain meeting agenda items to request the Board to close the discussion of that item. It was recommended that "any person" be expanded in § 720.45(b) to include "or the representative of any person." The phrase "any person" does impliedly include a representative with the legal right to act on behalf of the person directly involved.

Relationship to Freedom of Information Act

Written requests for copying and inspecting meeting records will be handled as Freedom of Information Act ("FOIA", (5 U.S.C. 552)) requests and should be made pursuant to Part 720, Subpart A of NCUA's Rules and Regulations. However, the Sunshine Act provides that the exemptions set forth in the Sunshine Act (§ 720.43(b)) shall govern in the case of any request made pursuant to FOIA to copy or inspect the transcripts, recordings or minutes described in § 720.48.

By the National Credit Union Administration Board, On January 30, 1980.

Rosemary Brady,

Secretary of the Board.

January 30, 1980.

Accordingly, it is proposed that Subpart C be added to Part 720 to implement the open meeting provisions of the Sunshine Act:

Subpart C—Public Observation of Board Meetings

Authority: Sec. 3(g), 90 Stat. 1241 (5 U.S.C. 552b(g)), sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

Subpart C—Public Observation of Board Meetings Under 5 U.S.C. 552b

§ 720.40 Scope and purpose.

(a) This subsection contains the regulations of the National Credit Union

Administration implementing subsections (b) through (f) of 5 U.S.C. 552b as required by the Sunshine Act, Pub. L. 94–409. The primary purpose of these regulations will be to provide the public with full access to the deliberations and decision of the Board while protecting the rights of individuals and preserving the ability of the agency to carry out its responsibilities.

§ 720.41 Definitions.

For the purposes of this subpart:

(a) "Agency" means the National Credit Union Administration.

(b) "Board" means the National Credit Union Administration Board, whose members are appointed by the President with the advice and consent of the Senate.

(c) "Subdivision of the Board" means a group composed of two Board members authorized by the Board to act on behalf of the agency.

(d) "Meeting" means any deliberations by two or more members of the Board or any subdivision of the Board that determine or result in the joint conduct or disposition of official agency business with the exception of: (1) Deliberations to determine whether a meeting or a portion thereof will be open or closed to public observation and whether information regarding closed meetings will be withheld from public disclosure; (2) deliberations to determine whether or when to schedule a meeting; and (3) infrequent dispositions of official agency business by sequential circulation of written recommendations to individual Board members ("notation voting procedure"): *Provided,* The votes of each Board member and the action taken are recorded for each matter and are publicly available, unless exempted from disclosure pursuant to 5 U.S.C. 552 (the Freedom of Information Act).

(e) "Public observation" means that a member or group of the public may listen to and observe any open meeting and may record in an unobtrusive manner any portion of that meeting by use of a camera or any other electronic device, but shall not participate in any meeting unless authorized by the Board.

(f) "Public announcement" or "publicly announce" means making reasonable efforts under the particular circumstances to fully inform the public, especially those individuals who have expressed interest in the subject matters to be discussed or the decisions of the agency.

(g) "Sunshine Act" means the open meeting provisions of the "Government in the Sunshine Act", Pub. L. 94–409, 5 U.S.C. 552b (b) to (f).

§ 720.42 Open meetings.

Except as provided in § 720.43(a), any portion of any meeting of the Board shall be open to public observation. The Board and any subdivision of the Board, shall jointly conduct official agency business only in accordance with this subpart.

§ 720.43 Exemptions.

(a) Under the procedures specified in § 720.45, the Board may close a meeting or any portion of a meeting from public observation or may withhold information pertaining to such meetings as otherwise required to be disclosed: *Provided,* The Board has properly determined that the public interest does not require otherwise and that the meeting (or any portion thereof) or the disclosure of meeting information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact properly classified pursuant to such Executive Order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than Section 552 of Title 5 of the United States Code, the Freedom of Information Act): *Provided,* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by a Federal agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of Federal agencies responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) be likely to (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed action, except that this subparagraph shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition of a particular case of formal agency adjudication pursuant to the procedures in Section 554 of Title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) Prior to closing a meeting whose discussions are likely to fall within the exemptions listed in paragraph (a) of this section, the Board will balance the public interest in observing the deliberations of an exemptible matter and the agency's need for confidentiality of the exemptible matter. In weighing these interests, the Board is assisted by the General Counsel as provided in § 720.47, by expressions of the public interest set forth in requests for open meetings as provided by § 727.46(b), and by the brief staff analysis of public interest which will accompany each staff recommendation that an agenda item be considered in a closed meeting.

§ 720.44 Public announcement of meetings.

(a) Except as otherwise provided in this section the Board shall, for each meeting, make a public announcement, at least one week in advance of the meeting, of the time, place and subject matter of the meeting, whether it will be open or closed to public observation and the name and telephone number of the Secretary of the Board or the person

designated by the Board to respond to requests for information about the meeting.

(b) Advance notice is required unless a majority of the members of the Board determine by a recorded vote that agency business requires that a meeting be called at an earlier date, in which case, the information to be announced in paragraph (a) of this section shall be publicly announced at the earliest practicable time.

(c) A change, including a postponement or a cancellation, in the time or place of a meeting after a published announcement may be made only if announced at the earliest practicable time.

(d) A change in or deletion of the subject matter of a meeting or any portion of a meeting or a redetermination to open or close a meeting or any portion of a meeting after a published announcement may be made only if (1) a majority of the Board determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible and (2) public announcement of the change and of the vote of each member on such change shall be made at the earliest practicable time.

(e) Each meeting announcement or amendment thereof shall be posted on the Public Notice Bulletin Board in the reception area of the agency's headquarters and may be made available by other means deemed desirable by the Board. Immediately following each public announcement required by this section, the stated information shall be submitted to the **Federal Register** for publication.

(f) No announcement shall contain information which is determined to be exempt from disclosure under § 720.43(a).

(g) The agency shall maintain a mailing list of names and addresses of all persons who wish to receive copies of agency announcements of meetings open to public observation and amendments to such announcements. Requests to be placed on the mailing list should be made by telephoning or by writing to the Secretary of the Board.

§ 720.45 Regular procedure for closing meeting discussions or limiting the disclosure of information.

(a) A decision to close any portion of a meeting and to withhold information about any portion of a meeting closed pursuant to § 720.43(a) will be taken only when a majority of the entire Board votes to take such action. In deciding whether to close a meeting or any portion of a meeting or to withhold information, the Board shall independently consider whether the public interest requires an open meeting. A separate vote of the Board will be taken and recorded for each portion of a meeting to be closed to public observation pursuant to § 720.43(a) or to withhold information from the public pursuant to § 720.43(a). A single vote may be taken and recorded with respect to a series of meetings, or any portions of meetings which are proposed to be closed to the public, or with respect to any information concerning the series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. No proxies shall be allowed.

(b) Any person whose interests may be directly affected by any portion of a meeting for any of the reasons stated in subparagraph (5), (6) or (7) of § 720.43(a), may request that the Board close such portion of the meeting. After receiving notice of a person's desire for any specified portion of a meeting to be closed, the Board, upon a request by one member, will decide by recorded vote whether to close the relevant portion or portions of the meeting. This procedure applies to requests received either prior to or subsequent to the announcement of a decision to hold an open meeting.

(c) Within one day after any vote is taken pursuant to paragraph (a) or (b) of this section, the Board shall make publicly available a written copy of the vote taken indicating the vote of each Board member. Except to the extent that such information is withheld and exempt from disclosure, for each meeting or any portion of a meeting closed to the public, the Board shall make publicly available within one day after the required vote, a written explanation of its action, together with a list of all persons expected to attend the closed meeting and their affiliation. The list of persons to attend need not include the names of individual staff, but shall state the offices of the agency expected to participate in the meeting discussions.

§ 720.46 Requests for open meetings.

(a) Following any announcement that the Board intends to close a meeting or any portion of any meeting, any person may make a written or telegraphic request to the Secretary of the Board that the meeting or a portion of a meeting be open. The request shall be circulated to the members of the Board, and the Board, upon the request of one member, shall reconsider its action under § 720.45 before the meeting or before discussion of the matter at the meeting. If the Board decides to open a portion of a meeting proposed to be closed, the Board shall publicly announce its decision in accordance with § 720.44(e). If no request is received from a Board member to reconsider the decision to close a meeting or portion thereof prior to the meeting discussion, the Chairman of the Board shall certify that the Board did not request reconsideration of its decision to close the discussion of the matter.

(b) The request to open a portion of a meeting shall be submitted to the Secretary of the Board in advance of the meeting in question. The request shall set forth the requestor's interest in the matter to be discussed and the reasons why the requester believes that the public interest requires that the meeting or portions thereof be open to public observation.

(c) The submission of a request to open a portion of a meeting shall not act to stay the effectiveness of Board action or to postpone or delay the meeting unless the Board decides otherwise.

(d) The Secretary of the Board shall advise the requestor of the Board's consideration of the request to open a portion of the meeting as soon as practicable.

§ 720.47 General Counsel certification.

For each meeting or any portion of a meeting closed to public observation under § 720.45, the General Counsel shall publicly certify, whether in his or her opinion, the meeting or portion thereof may be closed to public observation and shall state each relevant exemptive provision of law. A copy of the certification together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained as a part of the permanent meeting records. As part of the certification, the General Counsel shall recommend to the Board whether the public interest requires that the meeting or portions thereof proposed to be closed to public observation be held in the open.

§ 720.48 Maintenance of meeting records.

(a) The Board shall maintain a complete transcript of electronic recording adequate to record fully the proceedings of each meeting, or any portion thereof, closed to public observation. However, for meetings closed under subparagraph (8), (9)(i), or (10) of § 720.43(a), the Board shall maintain either a transcript, a recording or a set of minutes. The Board shall maintain a complete electronic recording for each open meeting or any portion thereof. All records shall clearly identify each speaker.

(b) A set of minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for taking such action. Minutes shall also include a description of each of the views expressed by each person in attendance on any item and the record of any roll call vote, reflecting the vote of each member. All documents considered in connection with any action shall be identified in the minutes.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes or a complete electronic recording of each meeting or any portion of a meeting, closed to public observation, for at least two years after such meeting or until one year after the conclusion of any agency proceeding with respect to which the meeting or any portion was held, whichever occurs later. The agency shall maintain a complete electronic recording of each open meeting for at least three months after the meeting date. A complete set of minutes shall be maintained on a permanent basis for all meetings.

§ 720.49 Public availability of meeting records and other documents.

(a) The agency sall make promptly available to the public, in the Public Reference Room, the transcript, electronic recording or minutes of any meeting, deleting any agenda item or any item of the testimony of a witness received at a closed meeting which the Board determined, pursuant to paragraph (c) of this section, was exempt from disclosure under § 720.43(a). The exemption or exemptions relied upon for any deleted information shall be reflected on any record or recording.

(b) Copies of any transcript, minutes or transcription of a recording, disclosing the identity of each speaker, shall be furnished to any persons requesting such information in the form specified in parapgraph (a) of this section. Copies shall be furnished at the actual cost of duplication or transcription unless waived by the Secretary of the Board.

(c) Following each meeting or any portion of a meeting closed pursuant to § 720.43(a), as the last item of business, the Board shall determine which, if any, portions of the meeting transcript, electronic recording or minutes not otherwise available under 5 U.S.C. § 552a (Privacy Act), contain information which should be withheld pursuant to § 720.43(a): *Provided, however,* That should be Board not make such determinations immediately following any such closed meeting, the Secretary of the Board, upon the advice of the General Counsel or the General Counsel's designee and after consulting with the Board, shall make such determinations. If at a later time, the Board determines that there is no further justification for witholding any meeting record or other item of information from the public which has previously been withheld, then such information shall be made available to the public.

(d) Except for information determined by the Board to be exempt from disclosure pursuant to paragraph (c) of this section, meeting records shall be promptly available to the public in the Public Reference Room. Meeting records include but are not limited to: The transcript, electronic recording or minutes of each meeting, as required by § 720.48(a); the notice of requirements of §§ 720.44 and 720.45(c); and the General Counsel Certification along with the presiding officer's statement, as required by § 720.47.

(e) These provisions do not affect the procedures set forth in this Part 720, Subpart A governing the inspection and copying of agency records, except that the exemptions set forth in § 720.43(a) and in 5 U.S.C. 552b(c) shall govern in the case of a request made pursuant to this Part 720, Subpart A to copy or inspect the meeting records described in this section. Any documents considered or mentioned at Board meetings may be obtained subject to the procedures set forth in this Part 720, Subpart A.

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Notices

Federal Register
Vol. 45, No. 24
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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.

ACTION

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Implementation of the Joint ACTION/LEAA Urban Crime Prevention Program (UCPP) for Fiscal Year 1980

AGENCIES: ACTION Agency and Law Enforcement Assistance Administration, Department of Justice.

ACTION: Responses to public comments and notice of program announcement—Urban Crime Prevention Program.

SUMMARY: These guidelines describe a new program jointly developed and administered by ACTION and the Law Enforcement Assistance Administration. The program was initiated by the President's Urban Policy Message of March 1978. Since the Law Enforcement Assistance Administration will provide the funding for the joint Urban Crime Prevention Program (UCPP), the basic requirements will be those from LEAA Guide for Discretionary Grant Programs, which are incorporated in the "UCPP Guidebook," and also LEAA Financial Guideline M7100.

Note.—It is not necessary to have a copy of M4500.1G because the "UCPP Guidebook" contains all the basic requirements.

The *Urban Crime Prevention Program* will not in any way impact upon the programs or regulations presently set out in the LEAA Manual M4500.1G, nor will the program affect the eligibility of those individuals applying for previously announced programs.

The program design and management are a joint venture by ACTION and the Law Enforcement Assistance Administration (LEAA) drawing upon ACTION'S expertise in volunteerism and community organizing and LEAA's expertise in the field of crime prevention.

FOR FURTHER INFORMATION CONTACT: W. Philip McLaurin, Director, Urban Crime Prevention Program, Office of Domestic and Anti-Poverty Operations, ACTION, Washington, D.C. 20525 (202) 254–3142, or Ernest Milner, Director, Urban Crime Prevention Program, Office of community Anti-Crime Programs, Department of Justice, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Room 1300, Washington, D.C. 20531 (202) 724–5935.

SUPPLEMENTARY INFORMATION: ACTION and the Law Enforcement Assistance Administration (LEAA) are announcing a new program for the fiscal year 1980. ACTION, under the legislative authority of title I of the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4951 ET SEQ. and LEAA, under the legislative authority of Title I of the Justice System Improvement Act of 1979, 42 U.S.C. 3701 ET SEQ. have jointly developed guidelines for this program entitled the Urban Crime Prevention Program. A draft announcement for the new Urban Crime Prevention Program appeared in the Federal Register on October 16, 1979 and the public was given 60 days in which to review and comment on the proposed program. An analysis of the comments received is provided below.

Nature of Comments and UCPP Response

The joint UCPP staff received 80 letters containing 150 comments on the draft UCPP guidelines which were published in the October 16, 1979 Federal Register. Analysis of the comments shows that an overwhelming majority of respondents supported the program design and focus and offered comments in the spirit of improving or clarifying certain points. Most of the comments can be grouped into three categories: the jurisdictional criteria for the grantee—54 comments, the project models—19 comments, and public agency participation—19 comments. These three categories account for 61 percent of all comments received.

Comments were received from 30 local private organizations, 18 local public organizations, 14 state organizations, eight national organizations, six mayors, two Congressmen, one U.S. Senator and one private citizen. The UCPP responses to comments received follow:

Jurisdictional Criteria for the Grantees

The UCPP received 29 suggestions that the city size requirements either be lowered or that some funds be reserved for cities with populations of less than 250,000, In addition, 25 respondents advocated expanding the locale in which the program would operate to include jurisdictional entities other than cities such as counties or SMSA's.

The UCPP has decided to lower the city size requirement to 150,000 based on the respondents' rationale that cities of this size have ample resources to accomplish the goals and objectives of the UCPP, and may also have crime problems as severe as those in cities with populations of 250,000 or more. The UCPP has retained the requirement that the program must be located in a city for the following reasons:

As part of the President's Urban Policy, the program's focus must be decidedly urban,

The program is restricted to low and moderate income neighborhoods which are found disproportionately in large cities, and

The possibility of multiple jurisdictional involvement would add to program complexity and promote unwieldy management structures.

Project Models

In the category of proposed models it was suggested that one element, under the Arson model, requiring the use of volunteers was repetitive and should be deleted. This suggestion was accepted.

Other comments suggested new or different models, opposed having models, or disagreed with the percentage of funds allotted to models. Because the current project models are based on national priorities, are amenable to the extensive use of volunteers, and offer a great deal of flexibility, no changes were made. Moreover, existing provisions allow that 40 percent of project funds may be used to support new, locally initiated projects.

Public Agency Participation

The UCPP received 12 comments requesting that public agencies be allowed to participate as grantees and seven comments advocating either an increased or decreased role for public officials. The UCPP maintained that public agencies are assured substantial participation in the program through

eligibility to act as project organizations, membership on the Advisory Council, and mayoral review of applications and grant award approval. Furthermore, the eligibility criteira require a grantee that can forge a partnership of diverse urban interests. The UCPP has determined that an established private nonprofit organization with a history of working with both neighborhood organizations and city government would most likely be able to develop and continue such a partnership.

Advisory Council

There were seven comments urging the mandatory inclusion of certain Advisory Council members. The UCPP felt that Council membership should reflect local circumstances and therefore opted not to require participation by any individual or organization other than the mayor and the project organizations. In response to one of the comments, however, the UCPP decided to encourage representation by county officials when county agencies are in any way involved in a UCPP grant. The UCPP envisioned that this might often occur because county agencies, especially those delivering social and human services, frequently operate within cities.

Several comments supported a requirement that the Advisory Council officially approve a grant application prior to submission for funding consideration. This suggested requirement was not adopted since the guidelines purposefully promote flexibility and local determination of Advisory Council functions.

Number, Size and Length of Grants

Several comments were received advocating either increases or decreases in the number, size, and length of grant awards. Based on the amount of available funds, and in consideration of the flexibility that is already built into these factors, the UCPP decided to retain provisions for up to 15 grants funded at up to $500,000 each for an 18–month grant period.

Allocation of Funds

UCPP received six comments urging increased allocations to project organizations. The UCPP decided to retain the $50,000 limit, reasoning that the current amount was sufficient to develop a neighborhood project yet not so large as to overwhelm the project organization or preclude evêntual local assumption of project costs.

Several respondents requested clarification on the percentage of funding allowed for administrative costs. In response, UCPP has incorporated language explaining that after the grantee subtracts its administrative costs from the grant award, the remainder of funds are considered project funds, and must be allocated to project organizations. Of these funds that are allocated to project organizations, 60 percent must be devoted to the project models.

One respondent suggested that the city government be reimbursed for any infrastructural costs it incurs. The UCPP believes that benefits accruing to the city will offset any costs incurred.

One respondent questioned the legality of a private nonprofit grantee allocating funds to a public agency. UCPP urges applicants to review local statutes to determine the legal implications of allocating funds in their area.

The Project Organization

Two respondents took issue with the language discouraging more than one project per neighborhood. The UCPP felt that the applicant should justify multiple allocations to a neighborhood because of the potential competition for resources within the neighborhood, and the difficulty of continuing two projects in a low or moderate income neighborhood once Federal funds were curtailed.

One respondent suggested that each grant be required to include at least one public agency as a project organization. The UCPP felt that the composition of a grant should reflect local conditions and that the guidelines, as written, adequately encourage public sector involvement.

The UCPP was questioned about the allowability of the grantee operating project organizations. Because this issue was not addressed in the guidelines, the UCPP has incorporated language stating that with compelling justification, the grantee, or a component of the grantee, may operate as a project organization.

Language Changes

Several respondents suggested language changes. Most of these changes, if incorporated, would have resulted in overly restrictive guidance. When changes resulted in clarifying rather than restricting the guidelines, changes were made.

Criminal Justice Coordinating Council

Several comments expressed concern over the role of the Criminal Justice Coordinating Councils (formerly SPA's) in the development and approval of applications. The UCPP welcomes the involvement of the Criminal Justice Coordinating Councils and local boards and has provided for their participation.

Requests For Greater Detail

Many respondents requested more detail on specific items. Additional specificity is provided in a UCPP Guidebook which is available from the UCPP staff.

Application Deadline

In response to recommendations that the deadline for submitting grant applications be extended, the guidelines now require that grant applications be postmarked no later than May 9, 1980.

The text of the final program announcement follows:

Urban Crime Prevention Program

A. *Program Goals:* The goals of this program are to increase neighborhood participation and problem-solving capacity, and to forge a working partnership among neighborhood groups, elected officials, criminal justice agencies and other public/private sector institutions in new community crime prevention efforts.

B. *Program Objectives:* The objectives of this program are divided into three main areas as follows:

1. *Innovative Approach:* a. To encourage projects which have not received significant emphasis in past federal funding.

b. To promote projects which expand the focus of attention beyond the actual commission of a crime to include the social and economic factors which are directly associated with criminal activity.

c. To generate activities which provide adoption of project models and other suggested and innovative projects which are consistent with the program's goals and objectives.

2. *Neighborhood Orientation:* a. Decrease the fear of crime among residents.

b. Increase a sense of responsibility for dealing with crime among residents.

c. Increase residents' perception of the importance of neighborhood groups in crime prevention.

d. Increase the number of neighborhood groups that work with a broad-based Advisory Council and are engaged in community crime prevention, including new or fledgling groups and those not previously involved.

e. Increase the financial and managerial competence of neighborhood groups to conduct a funded crime prevention program.

f. Increase the ongoing ability of neighborhood groups to define and analyze local crime problems, develop solutions, and implement projects designed to combat such problems.

g. Increase the ability of neighborhood groups to work in partnership with other

private and public sector organizations and agencies on crime prevention efforts.

h. Achieve substantial volunteer participation by residents in UCPP funded projects.

i. Create new roles for and effectively utilize the talents of volunteers in the operation of crime prevention programs.

j. Increase cohesiveness among neighborhood residents through efforts directed at preventing criminal activity.

3. *Partnership:* a. Insure the input of a wide range of expert advice, data, and support in the planning and implementation of neighborhood crime preventation projects.

b. Assure the cooperation and support of urban government and other interests in carrying out intended crime prevention efforts.

c. Avoid duplication or conflict of prevention activities among projects being developed in the UCPP and other urban crime prevention efforts.

d. Set in motion a process of coalition-building which, over a period of time, will define mutual interests and forge cooperative relationships for initiating future crime prevention projects.

C. Structure and Operation of Grants: The UCPP will fund up to 15 programs in cities of 150,000 or greater in population. The basis for establishing the population size of a city will be either the 1970 Federal Bureau of Census figures, or a subsequent projection by the Bureau of Census. Grants will range up to $500,000 for an 18-month grant period. Grants awarded under the UCPP will not require a matching contribution.

The program's organizational structure at each of the local levels will operate through a grantee, its Advisory Council and project organizations. Each grant will be used to make allocations up to $50,000 each to 5 to 15 project organizations, which must use the allocations to conduct crime prevention projects.

Administrative costs associated with the grantee's overall management should not exceed 20 percent. The UCPP anticipates that generally these costs will be less. An important criterion in reviewing applications will be the extent to which the proposed administrative costs are minimized without sacrificing program quality. The remaining grant funds will be used to cover the administrative and operational costs of the projects.

1. *Local Level:* The organizational structure through which each local program must operate consists of the following:

a. *The Grantee.*

The grantee must be a private not-for-profit corporation with the legal responsibility for administering a UCPP grant and must have the demonstrated capacity to work with both public agencies and neighborhood groups. It is expected that the grantee will only administer the grant and overall program. However, in situations where a compelling justification exists, the grantee or its subsidiary may operate as a project organization.

A potential grantee is responsible for developing the UCPP grant application, the major part of which will describe the number of project organizations and the crime prevention projects each will carry out in a specific urban neighborhood. The proposal must be based on systematic project planning and incorporate relevant crime and demographic data as well as other supporting information. In developing its application, the potential grantee must consult with a wide range of interests to assess specific crime problems, attract potential project organizations, and design appropriate crime prevention projects.

During this process, the potential grantee will identify Advisory Council members; the grantee will also be responsible for overall administrative supervision and coordination of project activities and the fiscal management of the project organizations' budgets. The grantee will provide appropriate administrative services, and ensure adequate training for volunteers, project organizations and the Advisory Council. The grantee will be responsible for complying with grant reporting requirements which will include quarterly financial and narrative progress reports.

b. *The Advisory Council.*

The Advisory Council must bring together a broad range of public and private interests to assist in planning and conducting the grant. The Advisory Council should reflect the program's goals of forging a partnership of citywide resources to support neighborhood crime prevention. The mayor, or highest elected city official or his or her designee, and a representative of each awarded project organization must serve on the Advisory Council. Other members will be drawn from the following groups or interests:

(1) Volunteer citizen organizations.
(2) Social or human service agencies.
(3) Criminal justice agencies.
(4) Labor and business.
(5) Public interest organizations.
(6) County and other appropriate public agencies' representatives.
(7) Others as deemed appropriate.

While the specific duties, organization, and responsibility of the Advisory Council should be the decision of the grantee, the broad responsibilities of the Advisory Council will include: (a) Providing policy and program guidance to the grantee;

(b) Providing general oversight on matters of program implementation and maintenance, including involvement in the monitoring and evaluation process of the grant and in the review of project organizations;

(c) Providing, through its members, liaison with the access to public and private agencies whose assistance would be useful in carrying out the program's objectives;

(d) Publicizing the grant in the broader community;

(e) Serving as a forum in which information can be exchanged, mutual interests defined, and cooperative relations established among members.

c. *Project Organizations.*

Project organizations will for the most part be neighborhood groups, which typically are local community organizations but which can include other neighborhood elements such as churches, business associations, parent/school groups, community centers, local ethnic associations, or tenant organizations. While the majority of project organizations must be neighborhood groups, public sector agencies are also eligible. Project organizations which are from the private sector must be not-for-profit organizations, but need not be incorporated.

Grantees will provide funds for project organizations to conduct crime prevention projects which are located in and operated for the benefit of specific low or moderate income neighborhoods. These projects must involve neighborhood residents in the development and implementation of their activities. Neighborhood residents must actively participate in all projects rather than merely being served by them.

2. *Allocation of Grant Funds:* The allocations to project organizations may vary in size up to $50,000. A *minimum* of 60 percent of a grantee's project funds must be devoted to one or more of the project models described below. A higher proportion of project funds may be allocated to the project models if desired. Up to 40 percent of project funds may go to the suggested projects, mentioned below, or to original locally initiated projects.

Normally only one allocation will be made in a neighborhood. Allocations to more than one project organization in a specific neighborhood, however, will be permitted where a compelling justification is made in the grant application and where each

organization indicates its willingness to cooperate with the other. Two or more project organizations in the same neighborhood can not run the same type of crime prevention project. Only one allocation of up to $50,000 will be made to a project organization. Typically, an allocation will fund one type of crime prevention project, although a project organization with sufficient justification may undertake more than one type of project.

3. *Grant Assistance and Requirements:* In addition to the overall management and administration of the program, provisions will be made at the federal level for: (a) technical assistance, (b) evaluation, and (c) monitoring and reporting requirements including on-site visits. Training will be provided by the grantee with some assistance by UCPP staff.

D. *Models, Suggested Project Areas and Locally Initiated Projects:* The principal means to further the UCPP goals and objectives will be the use of successful models, suggested project areas and original locally initiated community crime prevention projects. The UCPP will emphasize projects which address local crime problems of special concern to low and moderate income neighborhoods, which have not received substantial federal support to date, and which complement other federal anti-crime programs.

1. *Common Characteristics of all Projects:* All UCPP projects must include the following characteristics: a. They must be carried out at the neighborhood level by project organizations.

b. They must be based on the substantial participation of those who live or work in the local area.

c. They must include volunteers in key roles.

d. They must address important crime problems of a locale.

e. They must be developed in light of, and seen as a part of, broader efforts to address neighborhood problems while addressing the issues of crime prevention.

f. While the projects must deal with crime prevention, and must have the effect of strengthening the long-term capacity of neighborhood groups to address local crime problems, they must also improve neighborhood life generally.

g. They must foster working relations with urban resources which can assist in developing and implementing these local crime prevention projects.

h. While all projects must emphasize neighborhood action, a limited amount of funds may be used for research, data gathering, and conferences related to crime prevention and the overall objectives of the program.

In addition to neighborhood groups, public agencies which satisfy these project elements may be project organizations.

2. *Project Models:* Project models are presented in four particular areas and are predicated primarily on efforts which have been tried successfully in the past, but have not in their proposed form received major federal funding. Although the models must have the respective listed elements, considerable variation and adaptation to local needs is expected.

a. *Community Dispute Settlement Project:* For a variety of reasons many disputes are not reported to the police, nor is resolution sought through the courts. It has been demonstrated that for a wide range of minor disputes, particularly those between people who have an ongoing or prior relationship, a more informal process of dispute settlement may be more efficacious and satisfying.

The successful resolution of such disputes can prevent their recurrence and the more serious violence and property destruction which sometimes emerge from them.

(1) *Project Elements:* Projects under the Community Dispute Settlement model have the following characteristics:

(a) Projects must coordinate their activities with the prosecutor, court, and police.

(b) Projects must hold discussions with appropriate authorities about accepting referrals from the criminal justice system or other appropriate public or private sources. It is expected that the projects will have at least some disputes referred to them from criminal justice agencies.

(c) The dispute resolution must take place locally in the neighborhood.

(d) The principal third parties in the dispute settlement hearings must be people who live or work in the neighborhood.

(e) Projects must accept disputes which might be defined as minor crimes.

(f) Participation by disputant parties must be voluntary.

(g) Settlements must be based on voluntary agreement of the parties.

b. *Arson Project:* Arson is one of the fastest increasing serious crimes in urban America. Losses due to such criminal activity can be traced to unemployment, increased insurance rates, higher taxes, lost revenue, etc., in urban areas. Although exact statistics are unavailable, arson-for-profit is believed to be a significant part of a problem that causes the loss of lives and injuries to thousands of people each year. The UCPP will support the involvement of neighborhood groups in dealing with arson problems in their areas.

(1) *Project Elements:* Projects under the arson model must have the following characteristics: (a) Projects must document with data the seriousness of arson in a specific neighborhood.

(b) Projects must develop strategies to reduce both the opportunities and incentives to commit arson.

(c) Projects must demonstrate how their efforts to fight arson will lead to a reduction in such criminal activity.

(d) Projects must be able to demonstrate how their efforts will fight both arson and neighborhood deterioration.

(e) Projects must work in conjunction with appropriate authorities in identifying potential arson sites and prevention programs.

c. *Project to Reduce the Impact of Property Crime Victimization:* A significant portion of crime within urban neighborhoods involves crimes against property. A number of community crime prevention projects have sought to reduce the incidence of such crimes by educating citizens about protective measures that they can take as individuals or groups.

Successful efforts by neighborhood residents to reduce property crimes should increase the availability of insurance and thereby help to revitalize the neighborhood improve the local opportunities for employment, and enhance the safety and quality of neighborhood life.

When insurance providing protection from losses due to crimes against property is systematically denied, businesses and individuals have greater reluctance to purchase property or locate in a given area or they have greater incentive to leave. These conditions contribute to the general decay of the neighborhood.

(1) *Project Elements:* Projects under the model to Reduce the Impact of Property Crime Victimization must have the following characteristics:

(a) Projects must be community-based and must systematically gather data on the seriousness of the problem of insurance unavailability, the factors contributing to the problem, and appropriate alternatives to deal with the problem.

(b) Projects must extensively document the problem. The documentation must establish that there is a relationship between the problem and crime.

(c) Projects must find ways to involve community people in the development

and implementation of strategies to address these problems.

(d) Projects must describe how actions on this problem are part of a more comprehensive strategy to enhance the neighborhood through related neighborhood improvement activities and crime prevention.

d. *Community Victim and Witness Project:* In recent years there has been a growing awareness of the failue to deal adequately with the interests and needs of victims and witnesses. Such conditions contribute to the problem of victim/witness non-cooperation in reporting, investigating and preventing crime. Victims/witnesses often feel that their concerns are not routinely elicited or given serious consideration in criminal justice decisions.

Neighborhood-based programs can provide an opportunity to assist specific victims and witnesses and to work to improve the more general practices of criminal justice agencies that affect the community of victim and witness.

(1) *Project Elements:* Projects under the Community Victim and Witness model must have the following characteristics:

(a) Projects must document the extent and nature of the problems victims and witnesses who live in a specific neighborhood are encontering as a result of their victimization or participation in the criminal justice process.

(b) Projects must show a willingness to cooperate with relevant criminal justice agencies.

(c) Projects must address the interests and needs of victims and witnesses of crime.

(d) Projects must be located in specific neighborhoods and must focus on promoting the interests and needs of victims and witnesses who live or work in those areas.

(e) Projects must incorporate community victims' and witnesses' needs and those of the criminal justice system to obtain victim/witness cooperation.

3. *Suggested Project Areas:* The UCPP also includes a number of suggested project areas in which grantees and project organizations are encouraged to consider developing projects. Since the UCPP provides fewer initial guidelines in these areas, more local creativity on the part of applicants is expected in developing these potential projects.

Applicants may develop projects using these suggestions and/or locally initiated projects, as explained below, or a combination of the two with up to 40 percent of the proposed project funds.

Below is a brief description of several suggested areas which address problems that are consistent with the objectives of the UCPP.

a. *Family Violence:* In recent years, people have become aware of the prevalence of child and spouse abuse, of which only a small proportion comes to the attention of the legal authorities or other agencies. A number of efforts, although not providing a long term solution to the problems, are being explored to provide assistance and protection to abused family members, as well as counseling and other services for the entire family.

The UCPP encourages grantees and project organizations to develop neighborhood projects with primary reliance on volunteers and community participation to seek to reduce and prevent the incidence of family violence.

b. *Consumer Fraud:* While accurate statistics are not available, it is generally agreed that consumer frauds represent a major cost to specific individuals and to the society as a whole.

Specific types of fraud may cause great hardships in certain urban areas. The UCPP encourages grantees and project organizations to identify fraud problems and work with criminal justice officials to document, to prosecute, and to prevent the recurrence of such crimes.

(c). *Unemployment and Crime: Although there are conflicting studies as to the extent of the relationship between unemployment and crime, it is now generally accepted that such a relationship does exist.*

While it is recognized that increases in unemployment are primarily determined by national or local economic conditions, other factors such as employment discrimination based on race, ethnic background, or prior contact with the criminal justice system also appear to contribute to such increases in many urban areas.

UCPP encourages the development of neighborhood-based projects which address unemployment and employment discrimination and youth opportunities as related to crime.

d. *Public Housing Anti-Crime Initiatives:* Organizations within and in areas surrounding public housing projects, including those participated in the Urban Initiatives Anti-Crime Program, sponsored by the Department of Housing and Urban Development, are eligible to become project organizations under the UCPP and are encouraged to develop proposed volunteer programs consistent with the UCPP goals and objectives.

e. *School crime:* Neighborhoods are often judged by the environment and quality of their schools. The willingness of people to move into or remain in a neighborhood may be based more on the reputation of its schools than on any other factors.

The UCPP encourages grantees and project organizations to develop projects in the prevention of school crime including combatting vandalism, alternatives to suspension as a disciplinary tool, and the counseling of disruptive students.

4. *Locally Initiated Projects:* Some original projects initiated at the local level may be funded under the UCPP. These projects must be consistent with the goals and objectives of the UCPP and must include the common characteristics referred to previously. In addition, the 40 percent limitation of the proposed project funds mentioned in Section C 2 above applies.

E. *Use of Volunteers:* Grantees and project organizations in the UCPP must involve volunteers in local projects. Volunteers in the UCPP may be community residents who volunteer a few hours a week, or full-time volunteers who receive a living allowance or members of established volunteer organizations whose interests coincide with those of local projects.

The grantee must include in its grant application a workplan for each UCPP full-time volunteer. These volunteers may function in a variety of roles, such as organizers, researchers, lawyers, and accountants; however, their activities must be ultimately directed toward mobilizing community resources and increasing the capacity of the target community to solve its own crime problems. It is expected that UCPP grants will reflect a minimun of one UCPP full-time volunteer for each project organization.

UCPP full-time volunteers should be recruited from the local area. Federal level UCPP staff will be available to assist in this process and in locating candidates from outside of the target area when necessary. Volunteer selection is the responsibility of project organizations with concurrence from respective grantees.

UCPP full-time volunteers will serve a minimum of 40 hours per week and are available, as needed, at other times. Consequently, they may not hold part-time jobs nor receive compensation from another volunteer program. Full-time volunteers must be at least 16 years of age, be United States citizens or have permanent visa status, should be in general good health, and may not be currently involved in criminal litigation. They may, however, be in parole or probation status. Project organizations are responsible for specifying skill level criteria. Full-time volunteers in the UCPP may receive a living allowance

equal to but not in excess of that which is provided VISTA volunteers.

F. *Eligibility and Selection Criteria:* All UCPP grants will be awarded on a competitive basis. Grant applicants will be required to complete the LEAA Standard Form 424 which is the application for UCPP funding.

1. *Eligibility Criteria:* The applicant must meet the following criteria: a. Be located in a city with a population of at least 150,000.

b. Be a private not-for-profit corporation.

c. Submit a CPA certification of accounting capability.

d. Propose projects which will be carried out in low and/or moderate income neighborhoods.

e. Propose projects in residential areas which meet one or more of the following criteria for being a neighborhood:

(1) Being known by a given name.

(2) Having generally agreed upon boundaries.

(3) Having some historical continuity.

(4) Having a territorial group which bears its name.

f. Assure that a majority of proposed projects are conducted by, and a majority of project funds are awarded to, neighborhood groups.

g. Develop crime prevention projects which are responsive to identified crime problems and which conform to UCPP's goals and objectives. The process utilized to determine crime problems must be clearly described in the application. Input on local crime problems should be obtained from public and private organizations including neighborhood groups.

h. Document each Advisory Council member's willingness to serve for the duration of the grant, whether he/she participated in the project planning, whether he/she is familar with the contents of the proposal, and whether or not a Council member's organization will receive an allocation.

i. Provide a description of how and where the applicant drew on sources of data, information, and expertise in developing its application.

j. Submit brief biographies of Advisory Council members describing their backgrounds and the group or interests they represent on the Council.

k. Provide in the grant application a separate description of: each project organization; its experience in carrying out neighborhood projects and involving neighborhood people in them; the specific activities to be conducted by each project organization and the nature of the crime problem which will be addressed; and a separate itemized budget and budget narrative for each project.

l. Describe any past and present community crime prevention efforts, including those receiving municipal, state, and/or federal assistance (e.g., LEAA, HUD, CETA, etc.).

m. Provide assurance of willingness to cooperate with a national contractor in the evaluation of grant activities.

n. Conform with federal level goals and objectives established for the UCPP.

o. Comply with all regulations, policies, and procedures established for the management of the UCPP grant.

p. Comply with the OMB Circular A–95 which requires appropriate areawide and state clearinghouse review.

q. Participate in the UCPP technical assistance component which will provide ongoing help in project implementation at no cost to grantees. All successful applicants must agree to participate in this training and technical assistance program. Each application must include a description of its anticipated technical assistance needs during the program's start-up and implementation phases.

r. Submit application to the mayor for review. Mayors will, in writing, indicate whether:

(1) The proposal was reviewed or not.

(2) He/she or a designated representative participated in developing the application.

(3) The mayor, or his or her designee is willing to serve on Council.

Responses to the above must be submitted with the application. If the mayor chooses not to act on the application, the applicant will provide evidence that the application has been submitted to the mayor. The mayor may endorse more than one application if he/she chooses. The lack of the mayor's willingness to serve or to designate a representative to serve on the Advisory Council makes selection of the application as a tentative finalist in the review process unlikely. Once the proposed grantees are identified by the UCPP staff, and prior to awards, the mayor will have a 30-day period to veto any proposed grant within his/her jurisdiction. His/her veto is conclusive. No grant will be made if vetoed by the mayor.

2. *Selection Criteria Priorities.*

The following criteria will be utilized to rank eligible applicants in determining the selection of grantees. The 16 criteria are divided into three categories based on the priority given to each criterion.

a. Primary importance will be given to: (1) Extent to which all proposed projects meet the common characteristics developed by the UCPP.

(2) Applicants' demonstrated ability to work with neighborhood groups and public and private organizations.

(3) Extent of volunteer involvement in proposed crime prevention projects.

(4) Degree to which the applicant involved public and private organizations, especially neighborhood groups and residents, in planning proposed crime prevention efforts.

(5) Applicant's experience in developing, implementing, and managing neighborhood programs in crime prevention or other areas.

(6) Extent to which proposed projects employing models fulfill UCPP-determined project elements.

b. Secondary importance will be given to: (1) Demonstration in the proposal development of a sound planning process which includes the use of the best available crime statistics and other evidence of crime and its impact.

(2) Extent to which those proposed project organizations which are neighborhood groups have a multi-issue orientation.

(3) Extent of experience in and/or plans for community organizing as part of the proposed crime prevention projects.

(4) Extent to which the proposed projects address crime problems identified in the planning process.

(5) Breadth, representativeness, and expertise of Advisory Council membership and the degree of their involvement in developing the proposal.

c. Consideration will also be given to: (1) Extent to which those proposed project organizations which are neighborhood groups have an established organizational structure, including elected officers and regular meetings, involve members in their decision-making processes, and promote participation of residents in their activities.

(2) Reasonableness of costs in relation to activities proposed and results anticipated.

(3) Capability of applicants to afford training to project organizations and volunteers.

(4) Adequacy of grantee and project organization staffing patterns and the expertise of individual staff members in implementing and managing a UCPP grant and projects.

(5) Adequacy of plans by project organizations for effective supervision of volunteers receiving living allowances.

G. *Application Deadline and Submission Procedures:* 1. All applications for fiscal year 1980 funds must be received by LEAA or

postmarked no later than May 9, 1980. No applications will be considered if received or postmarked after that date.

2. In addition to the copies of the application sent to the state and local A-95 clearinghouses, the original plus two (2) copies of the entire application package should be sent to: The Control Desk, GCMD/FMGAB, Office of the Comptroller, LEAA, 633 Indiana Avenue, NW., Room 942, Washington, D.C. 20531.

3. In order to assist applicants, participants and other interested individuals in developing their plans to participate in the UCPP, pre-application technical assistance workshops will be held from 1:00 p.m. to 4:30 p.m. in the following ten cities according to the schedule below:

Region I, date: Monday, March 3, 1980, site: John W. McCormack Post Office and Court House, Federal Building, Post Office Square, Boston, Massachusetts 02109, Room 208

Region II, date: Tuesday, March 4, 1980, site: Federal Building 26 Federal Plaza, New York, New York 10007, Room 305

Region III, date: Thursday, March 6, 1980, site: William J. Green, Federal Building, 6th & Arch Street, Philadelphia, Pennsylvania 19106, Room 3306-3310

Region IV, date: Tuesday, February 26, 1980, site: Richard B. Russell, Federal Building, 75 Spring Street, Atlanta, Georgia 30303, Room-Auditorium

Region V, date: Monday, February 25, 1980, site: Everett McKinley Dirksen, Federal Building, 219 So. Dearborn Street, Chicago, Illinois 60604, Room 204A

Region VI, date: Friday, February 29, 1980, site: 1200 Main Tower, Dallas, Texas 75202, Room 1300

Region VII, date: Wednesday, February 27, 1980, site: Federal Building, 601 E. 12th Street, Kansas City, Missouri, Room 302

Region VIII, date: Tuesday, March 4, 1980, site: Lincoln Tower Building, 1860 Lincoln Street, Denver, Colorado 80203, Room Suite 103

Region IX, date: Monday, March 3, 1980, site: Federal Building, 450 Golden Gate Avenue, San Francisco, California, Room 15018

Region X, date: Thursday, February 28, 1980, site: New Federal Building, 915 Second Avenue, Seattle, Washington 98101, Room 4th Floor, North Conference Room

Sam Brown,

Director, Action.

Homer F. Broome, Jr.,

Acting Administrator, Law Enforcement Assistance Administration.

[FR Doc. 80-3603 Filed 2-1-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. *et seq.)*, it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

MO-247, Douglas County Livestock Auction, Inc., Ava, Missouri, November 30, 1979

NC-158, Elizabethtown Livestock Market, Elizabethtown, North Carolina, November 15, 1979

NY-158, Langless Bros., Auction Market, Inc., Cherry Creek, New York, November 5, 1979

Done at Washington, D.C., this 28th day of January 1980.

J. Fred Matteson,

Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 80-3612 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

Meat Import Limitations; First Quarterly Estimate; Correction

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Correction.

SUMMARY: This document is to correct FR Doc. 80-251.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Lloyd Fleck (FAS), 202/447-7198, Dairy, Livestock, and Poultry Division, FAS, USDA, Room 6621-S, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-251 appearing in the second column of page 813 of the **Federal Register** of Thursday, January 3, 1980, the phrase "calendar year 1979" is corrected to read "calendar year 1980" whenever it appears therein.

Issued at Washington, D.C., this 30th day of January 1980.

James H. Starkey,

Deputy Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 80-3617 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Covert Township Park Public Water-Based Recreation and Critical Area Treatment R.C.&D. Measure, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-372-1910, Ext. 242.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Covert Township Park Public Water-Based Recreation and Critical Area Treatment R.C.&D. Measure, Van Buren County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment and public water-based recreation. The planned works of improvement include installing a day use parking area (20 cars); 90 camp sites with underground electric hookup, fireplace grill, and trash barrel; one dump station for self-contained travel trailers; signs; primitive tent camping areas; 1,100 feet of recreation trails and walkways; 2,500 feet of fencing; playground equipment; and erosion control by beachgrass planting (5 acres). Total construction cost is estimated to be $115,950; $59,475 R.C.&D. funds and $56,475 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Ageny. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-372-1910, Ext. 242. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 24, 1980.

David G. Unger,

Associate Administrator.

[FR Doc. 80-3572 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-16-M

Lake Leon Critical Area Treatment R. C. & D. Measure, Texas

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, P.O. Box 648, Temple, Texas 76501, telephone 817–774–1214.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Leon Critical Area Treatment RC&D Measure, Eastland County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to stabilize three (3) acres of critically eroding areas below Lake Leon Dam. The planned works of improvement include excavation of the existing river bank to a stable slope and vegetation to a permanent grass cover, construction of a grass waterway above the riverbank to intercept and convey upland runoff to a safe outlet, and construction of a fence around the treated area for vegetative establishment and protection purposes.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationists, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, P.O. Box 648, Temple, Texas 76501, telephone 817–774–1214. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of proposal will not be initiated until March 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 24, 1980.

David G. Unger,

Associate Administrator.

[FR Doc. 80-3571 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-16-M

Pickett County Critical Area Roadside Treatment R.C. & D. Measure, Tennessee

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, U.S. Courthouse, Room 675, 801 Broadway Street, Nashville, Tennessee 37203, telephone 615–749–5471.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pickett County Critical Area Roadside Treatment RC&D Measure, Pickett County, Tennessee.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for treatment of eroding roadbanks and fills along county roads in Pickett County, Tennessee. The planned works of improvement include sloping, fertilizing, liming, and seeding to perennial grasses and legumes.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, U.S. Courthouse, Room 675, 801 Broadway Street, Nashville, Tennessee 37203, telephone 615–749–5471. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 5, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a–f, q.)

Dated: January 24, 1980.

David G. Unger,

Associate Administrator.

[FR Doc. 80-3570 Filed 2-1-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Dockets Nos. 33363, 34922 and 34923]

Former Large Irregular Air Service Investigation; Application of Joseph S. Norman II; Postponement of Hearing

The hearing in the above-styled proceeding now set for February 11, 1980 (44 FR 67485, November 26, 1979) is hereby postponed until further notice.

Dated at Washington, D.C., January 29, 1980.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 80-3618 Filed 2-1-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut 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 Connecticut Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on February 28, 1980, at 111 Pearle Street, Hartford, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss subcommittee report on Community Development Block Grant Program.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 28, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3623 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

Vermont 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 Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on February 25, 1980, at the Tavern Motor Inn, 100 State Street, Montpelier, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is the Franco-American Project; Teacher Training Project; census; and pending civil rights bills.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3621 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

Virginia 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 Virginia Advisory Committee (SAC) of the Commission will convene at 4:00 p.m. and will end at 7:00 p.m., on February 27, 1980, at the Ramada Inn, 1900 North Ft. Myer, Rosslyn, Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is the Virginia Advisory Committee will plan followup action on the fair housing study published by the U.S. Commission on Civil Rights in March 1979, and other committee activities for 1980.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3620 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

Washington 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 Washington Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 12:00 p.m., on February 29, 1980, at 915 Second Avenue, Room 2886, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is program plans.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-3622 Filed 2-1-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Pro-Am Skateboard Products, Inc., 9718 Washburn Road, Downey, California 90241, producer of skateboards and wheels (accepted January 17, 1980); (2) Garland Corporation, Oak Street, Brockton, Massachusetts 02401, producer of women's sweaters, tops, shirts, pants, skirts and dresses (accepted January 17, 1980); (3) Kickers for Her, Ltd., 1359 Broadway, New York, New York 10018, producer of women's jeans, shorts and rompers (accepted January 18, 1980); (4) G & H Decoys, Inc., P.O. Box 937, Henryetta, Oklahoma 74437, producer of water fowl decoys and hunting accessories (accepted January 18, 1980); (5) Orion's Belt, Inc., 5991 West State Road 48, Bloomington, Indiana 47401, producer of men's belt (accepted January 21, 1980); (6) Bryfogles, Inc., P.O. Box 359, Muncy, Pennslyvania 17756, producer of cut flowers and potted plants (accepted January 21, 1980); (7) Edmos Corporation, 20 Garvies Point Road, Glen Cove, New York 11542, producer of knit fabrics (accepted January 21, 1980); (8) Amer-Tex Industries, Inc., Green & Willow Streets, Skowhegan, Maine 04976, producer of shoe components (accepted January 21, 1980); (9) Henry Fashions of California, 3615 Broadway Place, Los Angeles, California 90007, producer of jeans for women, misses, and juniors (accepted January 23, 1980); (10) AmerSound Industries, Inc., 1727 Doan Avenue, East Cleveland, Ohio 44112, producer of automotive loudspeakers (accepted January 23, 1980); (11) Micro-Acoustics Corporation, 8 Westchester Plaza, Elmsford, New York 10523, producer of phonograph cartridges and replacement styli (accepted January 25, 1980); (12) Willits Shoe Company, Halifax, Pennsylvania 17032, producer of juvenile footwear (accepted January 25, 1980); (13) A & F Originals, Inc., 247 West 38th Street, New York, New York 10018, producer of women's cowhide outerwear (accepted January 25, 1980); (14) Kramer Jewelry Creations, Inc., 393 Fifth Avenue, New York, New York 10016, producer of costume jewelry (accepted January 28, 1980; (15) Kelly Slax, Inc., 1185 Avenue of the Americas, New York, New York 10036, producer of men's pants and shorts (accepted January 28, 1980); (16) Kluson Manufacturing Company, Inc., 3830 N. Kilbourn Avenue, Chicago, Illinois 60641, producer of machine heads (accepted January 28, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received

by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-3496 Filed 2-1-80; 8:45 am]

BILLING CODE 3510-24-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a pemit 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—Ocean Park Limited (P43A).

b. Address—Wong Chuk Hang Road, Aberdeen, Hong Kong.

2. Type of Permit: Public Display.

3. Name and Number of Animals: California sea lions (*Zalophus californianus*)—5.

4. Type of Take: Rehabilitated beached/stranded animals will be obtained for permanent maintenance.

5. Location of Activity: California.

6. Period of Activity: 2 years.

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 mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal 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, on or before March 5, 1980. 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.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Agriculture & Fisheries Department of Hong Kong, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity:

(b) Includes a statement that the Agriculture & Fisheries Department:

i. has verified the information set forth in the application;

ii. will monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Agriculture & Fisheries Department have been found appropriate and sufficent to allow consideration of this permit application.

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.

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.: and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 28, 1980.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-3629 Filed 2-1-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meetings

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) notice is hereby provided of the following meetings:

I. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on February 12 and 13, 1980, at the offices of VEBA A.G., Karl-Arnold Plata 3, 4000 Dusseldorf, 30, Germany, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Status of SOM and IWP activities and arrangements for future meetings.

2. Discussion of aspects of the oil products register and the reporting instructions covering this.

II. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on March 4, 5 and 6, 1980, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:30 a.m. on March 4. The purpose of this meeting is to permit attendance by representatives of the IWP at meetings of the IEA Standing Group on the Oil Market (SOM) and an ad hoc group of the SOM, which are being held at Paris on those dates.

The agenda for the meeting is under the control of the SOM and its ad hoc group. It is expected that the IWP representatives will be asked to discuss the following subject:

Further questions regarding the oil products register.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., January 29, 1980.

Craig S. Bamberger,

Acting Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 80-3555 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Big Bend Truck Plaza

AGENCY: Economic Regulatory Administration, Department of Energy

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective date: January 21, 1980

COMMENTS BY: March 5, 1980

ADDRESS: Send comments to: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.W., Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street NE., Atlanta, Georgia 30309, telephone (404) 881-2661.

SUPPLEMENTARY INFORMATION: On January 21, 1980, the Office of Enforcement of the ERA executed a Consent Order with Big Bend Truck Plaza of Tallahassee, Florida. Under 10 C.F.R. 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution. Because of the settlement negotiations involved in this case and the desire to conclude this matter expeditiously, the DOE has determined that it is in the public interest to make the Consent Order with Big Bend Truck Plaza effective as of the date of its execution by the DOE and Big Bend Truck Plaza.

I. The Consent Order

Big Bend Truck Plaza (Big Bend), with its home office located in Tallahassee, Florida, was a retailer of petroleum products, and is subject to the jurisdiction of the DOE with regard to prices charged in sales of these products, pursuant to 10 C.F.R. Section 212.93. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Big Bend, the Office of Enforcement, ERA, and Big Bend entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to sales of diesel fuel by Big Bend during the period November 1, 1973, through April 30, 1976.

2. From the audit conducted during the above period, ERA concluded that Big Bend's prices exceeded the maximum lawful selling prices permitted by the aforementioned regulations, resulting in overcharges in the sales of diesel fuel.

3. Big Bend agrees to refund the total sum of § 18,854.57 in full settlement and compromise of all outstanding overcharges found by DOE during the audit period.

4. The Consent Order provides that Big Bend shall make refunds totalling $18,854.57, with the initial refund being made within 30 days of the executed Consent Order in the amount of $5,500. Thereafter, four equal annual payments shall be made in the amount of $3,125.00 and additionally, refund by cashier's check in the amount of $854.57 shall be made directly to one identified overcharged customer.

5. The provisions of 10 C.F.R. 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Big Bend agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $18,854.57 on or before January 21, 1984. Refund methodology will be as specified in Section 1.4. above. Refunded overcharges in the amount of $18,000 will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 C.F.R. 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Allocation (Entitlements) Program, 10 C.F.R. 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 C.F.R. 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309. You may obtain a copy of this Consent Order with proprietary information deleted by writing to the same address.

Your should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Big Bend Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on March 5, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. 205.9(f).

Issued in Atlanta, Georgia on the 24th day of January 1980

James C. Easterday,

District Manager of Enforcement.

Approved for Signature.

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80-3497 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2100]

California Department of Water Resources; Application for Amendment of License

January 28, 1980.

Take notice that on August 21, 1979, the California Department of Water Resources (Licensee) filed an application for amendment of its license for the existing Feather River Project No. 2100, located on the Feather River and its tributaries in the County of Butte, California. Correspondence concerning the application should be sent to Mr. Ronald B. Robie, Director, Department of Water Resources, P.O. Box 388, Sacramento, California 95802.

The Licensee seeks authorization to construct: (a) an intake structure within the Thermalito Afterbay Dam at a point approximately 200 feet east of the existing river outlet; (b) a 1,000-foot-long, unlined, trapezoidal channel, with a bottom width of 160 feet, to carry water from the intake structure to the

Feather River south of the dam; (c) a powerhouse within the channel, about 200 feet downstream from the dam, containing a single generating unit with a rated capacity of 13,000 kW; and (d) a 34.5-kV transmission line, approximately 5½ miles long, that would connect the proposed powerhouse to the existing Thermalito Forebay Switchyard, north of powerhouse.

The Licensee estimates the capital cost of the proposed action to be $37,155,000, assuming that construction starts in January 1981 and the plant is in commercial operation by July 1984. The proposed power plant would become another feature of the Department of Water Resources' State Water Project. The energy generated would be used to aid in meeting the Water Project's pumping requirements.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979).

Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 10, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3531 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP75-62]

Cities Service Gas Co.; Further Extension of Time

January 28, 1980.

On January 21, 1980, Cities Service Gas Company filed a request for a further extension of time to submit Briefs on Exceptions to the Initial Decision issued October 29, 1979, in the above-docketed proceeding. The motion states that the additional time is needed in order to facilitate further settlement negotiations which are scheduled for January 18, 1980. This motion was filed by Cities Service on behalf of all active parties to this proceeding.

Upon consideration, notice is hereby given that a further extension of time for filing Briefs on Exceptions is granted to and including February 15, 1980. Briefs Opposing Exceptions are due on or before March 6, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3532 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-11]

Columbia Gas Transmission Co.; Third Party Protests [1]

January 31, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B [2] and Order on Rehearing of Order No. 23-B,[3] the staff of the Commission protested on December 31, 1979, the assertion by the Columbia Gas Transmission Company (Columbia) that the contracts identified in its protest provide contractual authority for the producers to charge and collect the applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the contracts contained in Appendix A do not provide authority for the producer to increase prices to the extent claimed by Columbia in its evidentiary submission.

Take notice that the Associated Gas Distributors (AGD) also filed a third-party protest on December 5, 1979. AGD protests that the contracts in Appendix B do not provide contractual authority for the producer to increase prices charged and collected to the applicable NGPA maximum lawful price.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before February 13, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Lois D. Cashell,

Acting Secretary.

Appendix A

Producer	Date
Fred J. Russell d.b.a. Louden Properties	1-31-49
J. W. Kinzer	10-7-71
Dewey W. Waters and Victor Waters	10-22-70

Appendix B

Seller	Date
Harry C. Boggs	10-19-79
Braxton Oil & Gas	8-27-79
Jimmy Hamilton Oil & Gas	10-25-79
Yankee Energy Associates, Ltd	10-26-79
J & J Enterprises, Inc	10-8-79
Stevenson Resources, Inc	6-5-79
Petroleum Development Corp	7-20-79
Petroleum Technology Corp	8-8-79
R. E. Riley & Co	10-4-79
Sterling Drilling & Production Co., Inc	10-22-79
Union Drilling, Inc	8-3-79
Union Drilling, Inc	8-21-79
Union Drilling, Inc	8-28-79
Union Drilling, Inc	9-5-79
Union Drilling, Inc	10-8-79
Union Drilling, Inc	10-10-79
V-H Joint Venture	9-5-79
J. W. Kinzer	10-7-71
Fred J. Russell d.b.a. Louden Properties	1-31-49
Dewey H. Waters and Victor Waters	10-22-70
Luray Land, Inc	4-29-77
Roy G. Hildreth, Jr	1-8-73

[FR Doc. 80-3533 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-11]

Columbia Gas Transmission Co.; Third Party Protest [1]

January 29, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B [2], and "Order on Rehearing of Order No. 23-B," [3] the staff of the Commission protested on October 15, 1979, the assertion by the Columbia Gas Transmission Company (Columbia) that the contracts identified in its protest constitute contractual authority for the producers to charge and collect the applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff asserts that the contracts contained in Appendix A do not provide authority for the producer to increase prices to the extent claimed by Columbia in its evidentiary submission.

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

Take further notice that the Associated Gas Distributors (AGD) also filed a third-party protest on October 15, 1979. AGDprotests that the contracts in Appendix B do not provide contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price. AGD's position has been adopted and incorporated in protests filed by the Arizona Corporation Commission, "Florida Cities", the Gas Consumers Group, the Kansas State Corporation Commission, the Cities of Mangum, Oklahoma and Winfield, Kansas, Congressman Andrew Maguire, the Memphis Light, Gas and Water Division, the Public Service Commission of the State of New York, the South Dakota Public Service Commission and the Minnesota Public Service Commission.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to those protests should file with the Commission, on or before February 11, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller is automatically joined as a party.

Lois D. Cashell,

Acting Secretary.

Appendix A

Producer	Rate Schedule No. or Contract date
Amoco Production Co	78
Amoco Production Co	173
Amoco Production Co	174
Amoco Production Co	190
Columbia Gas Development Corp	10, 17
Exxon Corp	26
Exxon Corp	357
Forest Oil Corp	50
Getty Oil Corp	26
Getty Oil Corp	223
Jay Simmons Trust	11-1-74
Petro-Lewis Funds, Inc	1-15-54
Rebstock Producing Co	11-1-74
Reeves Producing Co	1-11-74
Superior Oil Co	225
Texas Eastern Exploration Co	14
Union Oil Co. of California	168
Union Oil Co. of California	223
Union Oil Co. of California	234
Union Texas Petroleum	120
CNG Producing Co	44
Columbia Gas Development Corp	23, 25
Columbia Gas Development Corp	26
Columbia Gas Development Corp	34
Felmont Oil Corp	27
Forest Oil Corp	62
Forest Oil Corp	63
Issac Arnold, *et al*	2
Exxon Corp	489
Texaco, Inc	2
Texaco, Inc	463
Amoco Production Co	760
Case Pomeroy Oil Corp	9
Felmont Oil Corp	29
Columbia Gas Development Corp	21
Columbia Gas Development Corp	22
Texaco, Inc	4
Texaco, Inc	306
Texaco, Inc	364
Texaco, Inc	539
Texaco, Inc	7-1-76

Appendix A—Continued

Producer	Rate Schedule No. or Contract date
Columbia Gas Development Corp	7-10-78
Columbia Gas Development Corp	8-8-78
Columbia Gas Development Corp	9-29-78
Tenneco Exploration	16
Texas Oil & Gas Corp	7-10-78
Texas Oil & Gas Corp	9-29-78
Columbia Gas Development Corp	12-6-78
Pancanadian Petroleum Corp	1-9-79
Texaco, Inc	560
Columbia Gas Development Corp	8
Forest Oil Corp	49

Appendix B

Producer	Rate Schedule No. or contract date
Ada Land Co	
Windson Gas Corp	6
The Wiser Oil Co	6
Alminex U.S.A. Inc	6
Canadian Superior Oil, Ltd	9
Natresco, Inc	4
The Superior Oil Co	367
Aminoil USA, Inc	9-13-76
H. W. Bass & Sons	9-13-76
Case Pomeroy Oil Corp	7
Clark Oil Producing Co	9-13-76
CNG Producing Co	44
Columbia Gas Development Corp	18
Columbia Gas Development Corp	23
Columbia Gas Development Corp	26
Columbia Gas Development Corp	34
Felmont Oil Corp	24
Felmont Oil Corp	27
Felmont Oil Corp	29
Forest Oil Corp	62
Forest Oil Corp	63
Home Petroleum Corp	9-13-76
Amerada Hess Corp	5-10-79
Exxon Corporation	620
The Louisiana Land & Exploration Co	27
AMOCO Production Co	219
AMOCO Production Co	78
AMOCO Production Co	174
AMOCO Production Co	641
Coltexo Corporation	6
Energy Reserves Group, Inc	109
Ethyl Development Corp	5-25-79
Exxon Corporation	562
Frank's Petroleum, Inc	6-13-66
General American Oil Co. of Texas	70
Oxy Petroleum Inc	11-1-66
Sun Oil Company	38
AMOCO Production Co	173
AMOCO Production Co	190
AMOCO Production Co	384
Arco Oil & Gas Co	519
The Superior Oil Co	217
Superior Oil Co	225
American Petrofina Company of Texas	9
American Petrofina Company of Texas	67
American Petrofina Company of Texas	68
Inexco Oil Co	11-7-77
M. L. Mayfield	1-25-54
Exchange Oil & Gas Corp	34
Exxon Corp	23
Exxon Corp	24
Exxon Corp	26
Exxon Corp	357
Exxon Corp	545
Exxon Corp	546
Exxon Corp	575
Exxon Corp	577
Exxon Corp	578
Exxon Corp	580
Exxon Corp	598
Exxon Corp	617
Exxon Corp	631
Exxon Corp	632
Exxon Corp	633
Exxon Corp	635
Exxon Corp	636
Exxon Corp	637

Appendix B—Continued

Producer	Rate Schedule No. or contract date
Exxon Corp	639
Gulf Oil Corp	363
Robert Mosbacher	3-20-75
Texas Pacific Oil Co	3
AMOCO Production Co	198
AMOCO Production Co	240
Sun Oil Co	367
AMOCO Production Co	431
AMOCO Production Co	731
Columbia Gas Development Corp	16
Columbia Gas Development Corp	17
Exxon Corp	518
Exxon Corp	528
Exxon Corp	530
Exxon Corp	541
Getty Oil Co	203
Getty Oil Co	223
Getty Oil Co	396
Phillips Petroleum Co	519
Texas Eastern Exploration Co	14
Texas Gulf, Inc	11-14-72
Texas Gulf, Inc	7-22-75
Union Oil Co. of California	168
Union Oil Co. of California	223
Union Oil Co. of California	234
Union Texas Petroleum	111
Exxon Corp	135
General American Oil Co. of Texas	60
General American Oil Co. of Texas	64
McMoran Exploration Co	7-28-78
Union Oil Co. of California	12
Exxon Corp	480
Exxon Corp	488
Exxon Corp	491
Exxon Corp	492
Exxon Corp	506
Exxon Corp	531
Exxon Corp	532
Exxon Corp	534
Exxon Corp	538
Exxon Corp	539
Texas Gas Exploration Co	32
Exxon Corp	567
Exxon Corp	574
Exxon Corp	588
Exxon Corp	605
Exxon Corp	610
Exxon Corp	489
Texaco Inc	446
Texaco Inc	454
Texaco Inc	463
AMOCO Production Co	723
AMOCO Production Co	644
Union Texas Petroleum	134
AMOCO Production Co	539
Bethlehem Steel Corp	3
C & K Marine Production Co	11-23-77
Can Del Oil (U.S.) Inc	11-23-77
Four M Properties Ltd	11-23-77
Ocean Production	22
St. Joe Petroleum (U.S.) Corp	11-23-77
Texas Exploration Co	28
Exxon Corp	585
Callery Properties, Inc	8-21-73
Davis Oil Co	1-11-71
Edgewater Oil Co., Inc	5-31-67
Edgewater Oil Co., Inc	4-1-72
Exchange Oil & Gas Corp	22
Exchange Oil & Gas Corp	28
Robert Mosbacher	8-23-73
Texas International Petroleum Corp	4-26-72
W. W. F. Oil Corp	9-14-64
Columbia Gas Development Corp	8
Forest Oil Corp	49
Columbia Gas Development Corp	10
Forest Oil Corp	52
Columbia Gas Development Corp	12
Arco Oil & Gas Co	63
Arco Oil & Gas Co	166
Arco Oil & Gas Co	261
Apache Corporation	9-11-78
California Co. (Chevron Oil)	23
Columbia Gas Development Corp	19
Columbia Gas Development Corp	25
Earl P. Burke, Jr., et al	8-30-78
Earl P. Burke, Jr., et al	1-16-79
Hydrocarbon Exploration Co. Inc	2-6-79
Miles Kimball Co	1-16-79
Riner Exploration Corp	1-17-79

Appendix B—Continued

Producer	Rate Schedule No. or contract date
Southport Exploration	2-9-79
Union Oil Co. of California	246
Columbia Gas Development Corp	15
Sun Oil Co	76
Union Texas Petroleum	120
Windson Gas Corp	4-1-72
Case Pomeroy Oil Corp	9
Columbia Gas Development Corp	9
Forest Oil Corp	50
Amoco Production Co	750
Isaac Arnold, et al	6-28-63
Watson Petroleum Exploration, Inc. et al	3-12-79
Amoco Production Co	760
Tenneco Exploration Ltd	16
Texaco Inc	2
Shell Oil Co	3-1-79
Tenneco Exploration Ltd	16
Watson Petroleum Exploration, Inc. et al	3-12-79
Texaco Inc	560
Texaco Inc	5
Texaco Inc	6
Sun Oil Co	98
Sun Oil Co	223
Phillips Petroleum Co	273
Oxy Petroleum Inc	12-8-78
James R. Moffett, et al	3-1-74
Petro-Lewis Funds, Inc	10-31-52
Tenneco Oil Co	96
Texaco Inc	306
Mobil Oil Corp	423
Mobil Oil Corp	491
Northwestern Mutual Life Ins. Co	1
Exxon Corp	618
Exxon Corp	623
Exxon Corp	627
Sun Oil Co	98
Sun Oil Co	223
Texaco Inc	560
Amoco Production Co	760
Great Southern Oil & Gas Company Inc	5-23-57
Momo Power Co	3-14-78
Mobil Oil Corp	534
Mesa Petroleum Co	1-4-79
Getty Oil Co	393
Getty Oil Co	404
Texas, Gulf Inc	9-12-72
Union Texas Petroleum	110
General American Oil Co	109
General American Oil Co of Texas	65
Frank's Petroleum Inc	2-14-79
Exxon Corp	640
Getty Oil Co	26
Margaret Cullen Marshall, et al	1-17-79
Exchange Oil & Gas Corp	6
Texaco Inc	2
Davis Oil Co	3-25-69
Petro-Lewis Funds, Inc	1-15-54
Petro-Lewis Funds, Inc	5-22-68
Exxon Corp	634
Texaco Inc	5
Texaco Inc	6
Shell Oil Co	3-1-79
Mobil Oil Corp	141
Curt Weaver Oil Co	7-10-75
Curt Weaver Oil Co	4-18-67
James H. Kepper, Jr., et al	11-1-74
Mid-Gulf Exploration Co	11-1-74
Rebstock Producing Co	11-1-74
Reeves Producing Co	1-11-74
Jay Simmons Turst	11-1-74
Crystal Oil Co	5-25-78
Crystal Oil Co	9-1-78
Harry H. Cullen, et al	5-30-79
Exxon Corp	624
Exxon Corp	626
Exxon Corp	644
Exxon Corp	1-11-79
Exxon Corp	5-1-79
General Crude Oil Co	4-6-79
Columbia Gas Development Corp	4-9-79
Phillips Petroleum Co	4-25-79
Columbia Gas Development Corp	7-10-78
Columbia Gas Development Corp	8-8-78
Columbia Gas Development Corp	9-29-78
Texas Oil & Gas Corp	7-10-78
Texas Oil & Gas Co	9-29-78
Columbia Gas Development Corp	20
Columbia Gas Development Corp	21

Appendix B—Continued

Producer	Rate Schedule No. or contract date
Columbia Gas Development Corp	22
Texaco Inc	3
Texaco Inc	4
Texaco Inc	392
Texaco Inc	533
Texaco Inc	539
Texaco Inc	7-1-76
Texaco Inc	364
Texaco Inc	370
Columbia Gas Development Corp	32
Columbia Gas Development Corp	12-6-78
Pancanadian Petroleum Co	1-9-79
Columbia Gas Development Corp	33

[FR Doc. 80-3535 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-278]

East Tennessee Natural Gas Co.; Petition To Amend

January 29, 1980.

Take notice that on January 10, 1980, East Tennessee Natural Gas Company (Petitioner), 8200 Kingston Pike, Knoxville, Tennessee 37919, filed in Docket No. CP78-278 a petition to amend the order issued April 12, 1979, in the instant docket pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to modify the end-use limitations on the transported gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner seeks to amend ordering paragraph (c)(2) of the April 12, 1979, order to comply with § 2.79(m) of the Commission's General Policy and Interpretations as amended by order issued October 5, 1979, in Docket No. RM80-1 so as to provide that the transportation customer is not limited from purchasing any volumes of natural gas from its suppliers which does not exceed its normal entitlements as defined in § 2.79 and that there are no end-use restrictions upon the natural gas transported; however, the customer's aggregate supply volumes may not exceed the greater of its high priority requirements, or the sum of its normal entitlement, plus the fuel oil displacement volume authorized to be delivered under Subpart F of Part 284 of the Commission's Regulations under the Natural Gas Policy Act plus the direct sale volumes authorized to be delivered under certificates issued pursuant to Subpart E of Part 157 of the Commission's Regulations under the Natural Gas Act.

Any person desiring to be hear or to make any protest with reference to said petition to amend should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3536 Filed 2-1-80; 8:45]

BILLING CODE 6450-01-M

[Docket No. CP74-192]

Florida Gas Transmission Co.; Environmental Field Trip

January 28, 1980.

Take notice that commencing on February 4, 1980 members of the Environmental Evaluation branch of the Office of Pipeline and Producer Regulation will conduct an aerial inspection of the Florida Transmission Company pipeline for the purpose of preparing their supplemental Environmental Impact Statement in the above-referenced proceeding. For further information about this field trip, contact Richard Hoffmann, Room 7102B, 825 North Capitol Street NE., Washington, D.C. 20426 (202-357-8098).

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3537 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-194]

Montana-Dakota Utilities Co.; Application

January 30, 1980.

Take notice that on January 17, 1980, Montana-Dakota Utilities co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP80-194 an application pursuant to section 7(c) of the Natural Gas Act and 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing April 1, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set

forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's own production on acquired for system supply under sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that its gas utility plant Account 101 was $170,794,157 as of November 30, 1979, and total expenditures, beginning with calendar year 1981, would not exceed 3 percent of such account balance and no single project would exceed 25 percent of the total limit. The cost of the proposed facilities would be financed from internally generated funds and/or interim short term bank loans. Applicant requests that expenditures for the remainder of 1980 be limited to 75 percent of the total annual expenditures permitted by § 157.7(b).

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unneccessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3538 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-19]

Mountain Fuel Supply Co.; Petition To Amend

January 30, 1980.

Take notice that on January 14, 1980, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP79-19 a petition to amend the order of June 5, 1979, issued in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the addition of four new points for the receipt of gas from Panhandle Eastern Pipe Line Company (Panhandle) and the expansion of the existing Kanda Exchange Point (Kanda) and utilization of such point to deliver gas to Colorado Interstate Gas Company (CIG), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation and exchange agreement dated June 28, 1978, Petitioner was authorized by order issued June 5, 1979, to transport natural gas for Panhandle from the Moxa Arch area of Wyoming (Storm Shelter Receipt Point) to a point of interconnection between the system of Petitioner and CIG, where such natural gas is delivered to CIG for further transportation and ultimate delivery to Panhandle, it is stated. Petitioner states that since the execution of the original agreement, Panhandle has acquired additional commitments of gas reserves which can be connected to Petitioner's system for transportation to CIG pursuant to an amended agreement dated June 28, 1979.

Petitioner proposes to transport an additional 28,200 Mcf of natural gas per day for Panhandle which would be received at the following additional receipt points.

New Receipt Point, and Location

Fire Place Rock, Moffat County, Colorado
Yellow Creek, Uinta County, Wyoming
Rock Ridge, Sweetwater County, Wyoming
Salt Well, Sweetwater County, Wyoming

By order issued June 5, 1979, Petitioner states, it was authorized to construct and operate a new measuring station to redeliver gas to CIG for the account of Panhandle at the North Baxter exchange point, Sweetwater County, Wyoming. It is stated that an evaluation of the proposed expanded transportation service for Panhandle indicates that the total volumes of exchange gas cannot be delivered to CIG using the North Baxter point alone and that deliveries through the existing Kanda exchange point would be required which requires additional horsepower to increase its capacity to handle the extra volumes. Therefore, Petitioner proposes to install 2,975 horsepower of additional compression facilities at Kanda which would increase the capacity from 40,000 Mcf per day to 116,000 Mcf per day. It is stated the cost of the additional horsepower is estimated to be $1,505,925, which would be financed from funds on hand.

Petitioner requests authority to forego construction of the Baxter exchange point, as it would be redundant once the Kanda exchange point is modified, it is stated.

Petitioner states that Petitioner and Panhandle have executed a letter agreement dated June 28, 1978, which provides that Petitioner may add compression in order to effect the delivery of gas to CIG if compression is required and that Petitioner may charge Panhandle a compression charge for such service. The letter agreement further provides that the point of delivery to CIG be changed from the North Baxter exchange point to the Kanda exchange point, it is stated. Petitioner states that the initial rate which Petitioner would charge Panhandle for transportation of gas volumes which would be added as a result of this amendment would be 13.22 cents per Mcf. Petitioner states a cost of service based on a charge of 5.0 cents per Mcf would apply to all gas which requires compression for delivery to CIG at the Kanda exchange point in addition to reimbursement by Panhandle of its proportionate share of compressor fuel.

It is stated that the monthly volumes of gas received, transported and delivered would be thermally balanced, and to the extent possible, any out-of-balance condition would be made up during the following month.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the

Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3539 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-235]

Panhandle Eastern Pipe Line Co.; Petition To Amend

January 29, 1980.

Take notice that on January 7, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP76-235 a petition to amend the order issued August 9, 1976,[1] in the instant docket, pursuant to section 7(c) of the Natural Gas Act, so as to authorize an increase of the average shut-in reservoir pressure from a maximum of 2,796 psig to 3,515 psig, the acquisition and placement in service of an additional 600 horsepower of compression facilities, and an additional period of time and modification of the injection-withdrawal schedule to complete the development of the North Hopeton Storage Project, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Panhandle states that is was authorized, by order issued August 9, 1976, to proceed with the construction and operation of facilities associated with the development of the North Hopeton Field, Woods County, Oklahoma, as a natural gas storage project. It is stated that the order stipulated that the average shut-in pressure should not exceed 2,796 psig.

Panhandle states that full development of the North Hopeton Field project by 1984 would be achieved more rapidly if it were allowed to increase the average shut-in reservoir pressure to a maximum of 3,515 psig. Panhandle further states that it has determined that by refraining from making withdrawals from North Hopeton until the normal withdrawal period commencing in 1982, the field can be fully developed as a natural gas storage project more rapidly.

Panhandle asserts that in order to achieve the maximum shut-in reservoir pressure to 3,515 psig it would be necessary to add 600 horsepower of compression facilities at its Alva Compressor Station. Such addition, it is stated, would cost $647,000, which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3540 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-185]

Panhandle Eastern Pipe Line Co.; Application

January 30, 1980.

Take notice that on January 11, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-185 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Anchor Hocking Corporation (Anchor Hocking) for a two-year period, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport for Anchor Hocking up to 3,990 Mcf of gas per day on an interruptible basis for a term of two years. Pursuant to a transportation contract between Applicant and Anchor Hocking dated January 9, 1980, Applicant states it has agreed to receive up to 3,990 Mcf of gas per day on an interruptible basis through arrangements with Columbia Gas Transmission Corporation (Columbia) for the account of Anchor Hocking. According to Applicant, this gas would be transported and delivered to Columbia for the account of Anchor Hocking by Gas Transport, Incorporated (Transport). Transport, it is stated, is a wholly-owned subsidiary of Anchor Hocking. The point of receipt would be an existing point of interconnection between the facilities of Applicant and Columbia in Drake County, Ohio, it is asserted. It it stated Applicant would then deliver equivalent volumes to Anchor Hocking at an existing point of interconnection of the facilities of Applicant and Anchor Hocking in Randolph County, near Winchester, Indiana.

It is stated Anchor Hocking has advised Applicant that the gas to be transported hereunder would be used to supply the direct-fired process uses at Anchor Hocking's Winchester, Indiana, glass container manufacturing plant. According to Applicant, Anchor Hocking has informed Applicant that the subject gas would be used to offset curtailment of volumes of gas available for Anchor Hocking's use at its Winchester, Indiana, plant.

Applicant states Anchor Hocking would pay Applicant 2.45 cents per Mcf for gas transported and delivered to its plant at Winchester, Indiana.

Applicant states no new facilities are herein proposed as Applicant has sufficient capacity in its existing system to transport the quantities of gas pursuant to this contract as well as the other volumes connected to Applicant's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3541 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP70-248]

Panhandle Eastern Pipe Line Co.; Amendment to Petition To Amend

January 30, 1980.

Take notice that on January 10, 1980, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP70-248 pursuant to section 7(c) of the Natural Gas Act, an amendment to its petition to amend filed September 14, 1979, in the instant docket, so as to incorporate a February 7, 1979, amendment to a gas purchase and sales agreement (Agreement) dated November 21, 1969, between Petitioner and Western Gas Interstate Company (Western), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioner states that its September 14, 1979, petition seeks Commission authorization to implement a June 14, 1979, amendment of the November 21, 1969, agreement, and should also have included a February 7, 1979, amendment to that agreement.

Accordingly, Petitioner herein proposes to add an additional point of redelivery whereby Petitioner would redeliver exchange gas to Western at a point on Petitioner's pipeline located in section 26, T5N, R19ECM, Texas County, Oklahoma. Further Petitioner states that gas delivered by Western to Petitioner at the proposed point of receipt in section 10, T2N, R14ECM, Texas County, Oklahoma, pursuant to the June 14, 1979, amendment to the agreement shall be exchange gas. Consequently, Petitioner states that it would redeliver the full amount of exchange gas received in section 10 T2N, R14ECM, Texas County, Oklahoma, to one of the redelivery points mutually agreed upon by Petitioner and Western.

Any facilities necessary to add a new point of exchange would, it is stated, be built pursuant to Petitioner's budget-type certificate for gas supply facilities.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3542 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-189]

Producer's Gas Co.; Application

January 30, 1980.

Take notice that on January 15, 1980, Producer's Gas Company (Applicant), 950 One Energy Square, 4925 Greenville Avenue, Dallas, Texas 75206, filed in Docket No. CP80-189 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a delayed exchange of peaking gas with Panhandle Eastern Pipe Line Company (Panhandle), and the transportation of gas owned by Panhandle on an interruptible basis over a period of 15 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant owns and operates the Mooreland and Dewey gas transmission systems located in northwestern Oklahoma. Applicant states that the sole customer served heretofore by these intrastate systems has been Western Farmers Electric Cooperative (WFEC). Applicant asserts that it occasionally has excess capacity on the Mooreland and Dewey systems and volumes of gas which are surplus to the needs of WFEC. It is further stated that, accordingly, Applicant and Panhandle have entered into a delayed exchange, transportation and gas purchase and sales agreement whereby Applicant would sell surplus gas to Panhandle when such gas is available.

Applicant states that the subject service would be rendered through Applicant's existing facilities.

Applicant further states that it is presently transporting and selling natural gas to Panhandle pursuant to section 311 of the Natural Gas Policy Act of 1978, but contemplates cessation of this service upon issuance of the authorization sought herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3543 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 199]

South Carolina Public Service Authority; Granting Extension of Time

January 28, 1980.

On January 21, 1980, a motion was filed on behalf of several landowners in the Dean Swamp subimpoundment [1] requesting an extension of time to appeal an order issued on December 26, 1979, by the Director of the Office of Electric Power Regulation. The motion states that the landowners were not aware of the decision until January 11, 1980, and that additional time is needed to research and present additional information in support of the appeal.

Upon consideration, notice is hereby given that an extension of time is granted to and including February 4, 1980, for filing an appeal of the December 26, 1979, order.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3544 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-184]

Southern Natural Gas Co.; Application

January 30, 1980.

Take notice that on January 10, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP 80-184 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and appurtenant facilities to connect Diamond Shamrock Corporation's (Diamond Shamrock) wells with Applicant's existing pipeline, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 3.7 miles of 6⅝-inch O.D. pipeline, 10.1 miles of 8⅝-inch O.D. pipeline and 500 feet of 3½-inch pipeline and necessary appurtenances, including a measurement station, to connect Diamond Shamrock's wells located in Blocks 114, 115, and 116, Main Pass Area, offshore Louisiana, to Applicant's existing 14-inch Main Pass Block 107 field pipeline at an underwater tap in Main Pass Block 129, offshore Louisiana.

Applicant proposes to construct approximately 1.8-mile and approximately 1.9-mile segments of 6⅝-inch pipeline from the producer's wells in Blocks 115 and 114, respectively, to an underwater tap proposed in Block 117 from which approximately 4.3 miles of 8⅝-inch pipeline would extend to Chevron's Main Pass 127-A platform in Block 127 (Chevron Platform). Applicant proposes to construct and operate measuring facilities on the Chevron Platform. Applicant states a 3½-inch pipeline approximately 500 feet in length would connect a well in Block 116 to the proposed 8⅝-inch pipeline upstream of the Chevron Platform, and a 3½-inch pipeline approximately 500 feet in length would connect a well in Block 116 to the proposed 8⅝-inch pipeline upstream of the Chevron Platform. From the Chevron Platform in Block 127, the 8⅝-inch pipeline would extend approximately 5.8 miles to an underwater tap in Block 129 on Applicant's 14-inch Main Pass Block 107 field pipeline, it is stated.

It is stated that the facilities proposed to be constructed by Applicant would enable Applicant to take delivery of volumes of natural gas which Applicant has arranged to purchase from Diamond Shamrock under a gas purchase agreement dated September 25, 1979.

The facilities, according to Applicant, would be operated as an integral part of Applicant's present system and would not result in expansion of Applicant's sales. Applicant states the estimated cost of the proposed pipeline and appurtenant facilities would be $5,157,308 which would be financed initially by short-term financing and/or cash from current operations and ultimately from permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3545 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-188]

Southern Natural Gas Co.; Application

January 30, 1980.

Take notice that on January 15, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP80-188, an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new meter station facility for delivery of natural gas to Alabama Gas Corporation (Alagasco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant and Alagasco entered into a letter agreement dated September 12, 1979, whereby Applicant agreed, in consideration of Alagasco's promise of reimbursement to Applicant for all costs incurred, to relocate its East Birmingham tap and meter station, it is stated. Relocation would be accomplished by abandonment of the present meter station facilities and the construction of new meter station as proposed herein, Applicant asserts.

It is stated that the East Birmingham tap and meter station, which was installed in 1965, is presently located at or near Mile Post 202.625 on Applicant's 24-inch second north main line and is being used by Applicant to make deliveries of gas and to measure such deliveries to Alagasco. It is stated that the aforementioned agreement provides that Applicant would abandon its East Birmingham tap and meter station in order that the relocation may be accomplished.

[1] H. W. Lane, Johnny James, R. F. Cothran, George Calloway, *et al.*

Pursuant to its agreement with Alagasco, Applicant proposes to construct, and operate a new meter station approximately 4 miles to the east of the existing East Birmingham tap and meter station along Applicant's system to a site in the vicinity of a point of intersection of Applicant's system with Alagasco's distribution system. According to Applicant, the new meter station would be constructed, to the extent practicable, from the equipment and facilities of the existing East Birmingham tap and meter station. Applicant does, however, state it would construct, and operate new equipment and facilities as would be reasonably necessary to the efficient and safe operation of the new meter station. It is stated the agreement provides that Applicant would be reimbursed by Alagasco for all costs of construction involving the new meter station proposed herein. Applicant estimates the total cost of all facilities to be $122,088, which would initially be financed by short-term financing and/or cash from current operations, and ultimately from permanent financing.

Applicant states that such relocation would reduce the distance Alagasco must transport its gas purchases to its resale customers which would enchance reliablility of service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3546 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-92]

Southwest Gas Corp.; Filing

January 28, 1980.

Take notice that Southwest Gas Corporation (Southwest) on December 27, 1979, tendered for filing the following revised tariff sheets as part of its FERC Gas Tariff:

Substitute Sixth Revised Sheet No. 10
Substitute Fifth Revised Sheet No. 10
Second Substitute Fourth Revised Sheet No. 10
Substitute Third Revised Sheet No. 10
Second Substitute Second Revised Sheet No. 10
First Revised Sheet Nos. 26, 28, 29, 30, 31, 32, 33, 34 and 35
Second Revised Sheet Nos. 27 and 31.

Southwest states that these revised tariff sheets were filed pursuant to a Commission order of December 7, 1979, which approved a settlement agreement entered into in this docket.

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, 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 February 11, 1980. 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 the filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3547 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-178]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Application

January 30, 1980.

Take notice that on January 9, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-178 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange natural gas with Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that, in an effort to transport gas purchased by Applicant in Block 31, South Timbalier Area, offshore Louisiana, such gas from Block 31 producers is delivered via a pipeline of said producers at Gulf's "D" platform in South Timbalier Block 35. Gulf, it is stated, would deliver equivalent volumes into Applicant's existing 12-inch pipeline on Gulf's "B" platform in South Timbalier Block 36.

It is stated that Applicant is currently purchasing limited quantities of casinghead gas from Gulf at Ship Shoal 154 (SS154) but Gulf maintains the right to use such volumes as are necessary to operate a gas lift system for the production of crude oil. It is further stated that the volumes and pressure of casinghead gas are now so low that it is not possible to resume production after a storm or other conditions requiring a shutdown of production from the platforms. Applicant asserts that in consideration for Gulf's undertaking the South Timbalier exchange, Applicant has agreed to an exchange with Gulf whereby Gulf would receive certain gas from Applicant's system at SS154.

Applicant states that the proposed exchange of natural gas is being made pursuant to an exchange agreement dated May 16, 1979, which is for a primary term of three years and from year-to-year thereafter. Applicant further states that there would be no charge to either party for this exchange service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 19, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act

(18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unneccessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3548 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-14562, et al.]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc., et al.; Extension of Time

January 28, 1980.

On January 8, 1980, the Tennessee Gas Pipeline Company filed a request for an extension of time to make refunds pursuant to a Commission Order issued October 1, 1979, in the above-docketed proceeding. The motion states that pursuant to a Commission directive regarding refunds in Order No. 49, which was issued subsequent to the October 1, 1979, order, Tennessee has revised its tariff and is presently reviewing its applicable records in order to calculate these refunds. The Company requires additional time because of the large volume of records which must be analyzed in order to make the appropriate refunds.

Upon consideration, notice is hereby given that an extension of time is granted to and including February 14, 1980, for the making of refunds pursuant to the Commission's October 1, 1979, Order.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3549 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 459]

Union Electric Co.; Application for Approval of Change in Land Rights

January 28, 1980.

Take notice that an application was filed on August 30, 1979, under the Federal Power Act, 16 U.S.C. 791(a)-825(r), by Union Electric Company (Applicant) for approval of a change in land rights at Osage Project No. 459. The project lands and waters affected are located in the Little Niangua Arm, lake mile 45.1 of Lake of the Ozarks, in Camden County, Missouri. Correspondence with the Applicant in this matter should be addressed to: Mr. Michael F. Barnes, Attorney for Union Electric Company, P.O. Box 149, St. Louis, Missouri 63166.

Applicant seeks Commission authorization to lease, for a 5-year period, certain lands and waters to Dredging, Inc., of Camdenton, Missouri (doing business as Scott's Concrete). The lease would permit extraction of approximately 20,000 tons of sand and gravel per year by means of hydraulic dredging from submerged lands within the project reservoir. The lease would essentially constitute a renewal of prior leasing agreements approved by the Commission on January 20, 1975, and February 14, 1977.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before February 20, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3550 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-60]

Valley Gas Transmission, Inc.; Third-Party Protests[1]

January 29, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B,"[3] the staff of the Commission protested on January 22, 1980, the assertion by Valley Gas Transmission, Inc. (Valley Gas) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect the applicable maximum lawful price under section 104 of the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Valley Gas in its evidentiary submission.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission on or before February 11, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because, under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Lois D. Cashell,

Acting Secretary.

Appendix A

Seller	Rate schedule	Contract date
Barth Energy (17)	CS-571-1118	1/27/60
Gulf Oil Corp. (106)	282	10/1/64
Marguire Oil Co. (135)	12	2/25/71
National Exploration Co. (137 and 139).	CS-71-484	5/23/74
Shell Oil Co. (107)	312	10/1/64

[FR Doc. 80-3551 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

[1] The term "third party Protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

[Docket No. CP80-180]

Western Gas Interstate Co.; Notice of Application

January 30, 1980.

Take notice that on January 9, 1980, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP80-180 an application pursuant to section 7 of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon, during the calendar year 1980, various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of proposed construction and abandonment under § 157.7(g) would not exceed $500,000, and no single project would exceed 25 percent of the total budget amount. The cost, it is stated, would be paid out of funds on hand and with short term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unneccessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3552 Filed 2-1-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1397-6]

Intent to Transfer Confidential Information to a Contractor

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to transfer confidential information to a contractor.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential information collected under Section 308 of the Clean Water Act to an EPA contractor. This information will assist the contractor in developing, revising, and reviewing the technical data base which supports effluent limitations and standards established under the Clean Water Act.

DATES: Comments on the notice of transfer are due on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT: Elwood H. Forsht, Organic Chemicals Branch, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Streets, SW., Washington, D.C. 20460 (202) 426-2497.

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 requires the Environmental Protection Agency to develop, revise, and review effluent limitations and standards for industrial point sources. The Organic Chemicals Branch of the Effluent Guidelines Division is responsible for the carbon black, pesticides, pharmaceuticals, plastics and synthetics, rubber, organic chemicals, and miscellaneous organic chemicals industrial point source categories. EPA has awarded a contract to Walk, Haydel & Associates, Inc., of New Orleans, Louisiana (Contract No. 68-01-6024) to provide engineering services and other contract support to the Organic Chemicals Branch.

One of the sources of information which EPA will use to assess effluent limitations and standards is the data collected from questionnaires sent to various industries under authority of Section 308 of the Clean Water Act. Many of the responses to these questionnaires contain fundamental information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices. The specific survey responses which EPA will use in the course of its assessment are:

Industry	SIC Code	Date survey disseminated
Drugs	283	August and September 1977.
Plastic materials, synthetic resins and nonvulcanizable elastomers.	2821	1976 (BPT) and 1977 (BAT).
Synthetic organic fibers, except cellulosic.	2824	1976 (BPT) and 1977 (BAT).
Industrial organic chemicals, NEC..	2869	1976 (BPT) and 1977 (BAT).
Cyclic (coal tar) crudes and cyclic intermediates, dyes, and organic pigments (lakes and tones).	2865	1976 (BPT) and 1977 (BAT).
Chemicals and chemical preparations, NEC.	2899	July 25, 1978.
Pesticides and agricultural chemicals, NEC.	2879	July 25, 1978.

Many of these responses contain information which has been designated as confidential by the responding company.

The Agency has also used the authority of Section 308 to conduct numerous field sampling and analysis surveys of in-plant and end-of-pipe wastewater sources within these industries. Portions of this data also have been declared confidential by the sampled facilities.

EPA has determined that it is necessary to transfer this information to Walk, Haydel & Associates, Inc., in order that they may carry out the work required by their contract. The contract contains all confidentiality provisions required by EPA confidentiality regulations (40 CFR 2.302(h)(2-3)). In accordance with those regulations, sampled facilities and questionnaire respondents who have submitted confidential information have ten days from the date of this notice to comment on EPA's proposed transfer of this information to this contractor for the purposes outlined above (40 CFR 2.302(h)(2-3)).

Dated: January 17, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-3491 Filed 2-1-80; 8:45 am]

BILLING CODE 6560-01-M

[PF-164; FRL 1404-4]

Pesticide Programs; Filing of Pesticide Petition

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA, or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: Sandoz, Inc., 480 Camino del Rio So., San Diego, CA 92108, has submitted a pesticide petition (PP OF2295) proposing that 40 CFR 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide *Nosema locustae* on rangeland forage.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM-17), Mr. Franklin Gee, Room E-341, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9417. Comments submitted should bear a notation indicating the petition number "PP OF2295". Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 408(d)(1) Federal Food, Drug, and Cosmetic Act.)

Dated: January 29, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3576 Filed 2-1-80; 8:45 am]

BILLING CODE 6560-01-M

[PF-165; FRL 1404-5]

Pesticide Programs; Filing of Pesticide, Food, and Feed Additive Petitions

AGENCY: Office of the Pesticide Programs, Environmental Protection Agency (EPA, or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following petitions have been submitted to the Agency for considerations.

PP OF2307. ICI Americas, Inc., Wilmington, DE 19897. Proposes that 40 CFR 180.378 be amended by establishing a tolerance for residues of the insecticide permethrin (3-phenoxyphenyl) methyl (±)-*cis, trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the raw agricultural commodity potatoes at 0.05 part per million (ppm). The proposed analytical method for determining residues is gas chromatography with multiple ion detector mass spectrometry. Product Manager (PM-17), Mr. Franklin Gee, Room E-341, telephone 202/426-9417.

PP OF2308. ICI Americans, Inc. Proposes that 40 CFR 180.378 be amended by establishing tolerances for residues of the above insecticide in or on the raw agricultural commodities fresh alfalfa at 4.0 ppm and alfalfa hay at 16 ppm. The proposed analytical method for determining residues is gas-liquid chromatography with mass spectroscopy. PM-17.

PP OF2312. Union Carbide, Inc., 300 Brookside Ave., Ambler, PA 19002. Proposes that 40 CFR 180.300 be amended by establishing a tolerance for residues of the plant regulator ethephon [(2-chloroethyl)phosphonic acid] in or on the raw agricultural commodity cottonseed at 0.75 ppm. The proposed analytical method for determining residues is gas chromatographic analysis using an alkali thermionic detector.

FAP OH5250. Union Carbide, Inc. Proposes that 21 CFR 193 be amended by permitting residues of the plant regulator ethephon in the commodity refined cottonseed oil at 1.5 ppm. PM-25.

FAP OH5250. Union Carbide, Inc. Proposes that 21 CFR 561 be amended by permitting residues of the plant regulator ethephon in or on the commodity refined cottonseed oil at 5.0 ppm. PM-25.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460 at the telephone numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Secs. 408(d)(1) and 409(b)(5), Federal Food, Drug, and Cosmetic Act).

Dated: January 29, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80-3577 Filed 2-1-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, 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 the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 14, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: 10064-4.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10064-4 modifies the basic agreement of the Flota Mercante Grancolombiana S. A./Lykes Bros. Steamship Co., Inc. Equal Access Agreement to (1) provide that additional United States—flag lines may become members of the Agreement and (2) extend the duration of the Agreement for an indefinite period beyond its current expiration date of March 24, 1980.

Dated: January 30, 1980.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3600 Filed 2-1-80; 8:45 am]

BILLING CODE 6730-01-M

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, NW., Room 10218; 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 February 25, 1980. 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-3516-2.
Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.
Summary: Agreement No. T-3516-2, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui-O.S.K. Lines, Ltd., Nippon Yusen Kaisha Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd. (the Lines), modifies the parties' Agreement No. T-3516-1, which relocated the Port's lease to the Lines from Terminal 18 to Terminal 37, Seattle, Washington, by adding the vessels of Korea Marine Transport Co., Ltd., as users of Terminal 37.
Agreement No.: T-3788-2.
Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.
Summary: Agreement No. T-3788-2 between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha Ltd., Mitsui-O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd. (Lines), modifies the parties' basic agreement as amended, which provides for the Port's 20 month lease (with renewal options) to the Lines of certain premises at Terminal 37, Seattle, Washington to be used for the Lines' container freight station warehouse and operations incidental thereto. The modification provides for the inclusion of the vessels of Korea Marine Transport Co., Ltd. as a user of the premises.

Agreement No.: T-3884.

Filing Party: Robert W. Parkin, City Attorney, Harbor Branch Office, Harbor Administration Building, Post Office Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3884, between the city of Long Beach, California (City) and H. Tourist, Inc., (Tourist) provides for the lease of City's Catalina Landing Facility, including 16,525 square feet of office and terminal facilities, 7,730 square feet of landscaped area, and 61,670 square feet of water area, to be used by Tourist as a passenger terminal with office space. The initial term of the lease is nine years, with three five-year renewal options. As compensation, Tourist will pay City an annual rental of $60,000.00.

Agreement No.: T-3886.

Filing Party: Burt Pines, City Attorney, By: Jonathan P. Nave, Deputy City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Summary: Agreement No. T-3886 between Los Angeles, California (City) and Fred F. Noonan, Co. Inc., and Rederi AB Soya (Wallenuis Lines) (Parties) provides for a joint and several guarantee to the City from the Parties as consideration for the issuance of a nonexclusive preferential berth assignment agreement. The berth assignment itself is not submitted for determination, and the rates to be paid are published in the Port of Los Angeles Tariff No. 3. The guarantee provides that Fred F. Noonan, Co. Inc., will import a specific minimum number of automobiles during each annual period as defined in the guarantee, and if this is not accomplished, they will pay the amount by which actual payment for dockage, wharfage and storage is less than $600,000. The guarantee provides a 90 days written cancellation notice. The guarantee is submitted to the Commission since it is possible that Fred F. Noonan Co. Inc., will pay an average charge per automobile higher than the charges published in the tariff in the event they do not meet the minimum.

Dated: January 30, 1980.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3801 Filed 2-1-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First American Bancshares, Inc.; Formation of Bank Holding Company

First American Bancshares, Inc., Kingston, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 per cent of the voting shares of The Kingston Bank, Kingston, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3517 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

First Beemer Corp.; Formation of Bank Holding Company

First Beemer Corporation, Beemer, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank, Beemer, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3516 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

First National Bankshares of Sheridan Wyo.; Formation of Bank Holding Company

First American Bankshares of Sheridan, Wyoming, Sheridan, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank, Sheridan, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3518 Filed 1-31-80; 8:45 am]

BILLING CODE 6210-01-M

First Riesel Corp.; Formation of Bank Holding Company

First Riesel Corporation, Riesel, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92 percent or more of the voting shares of First State Bank, Riesel, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 29, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3515 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

First Tipton Bancorporation; Formation of Bank Holding Company

First Tipton Bancorporation, Tipton, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 84.1 percent or more of the voting shares of First National Bank of Tipton, Tipton, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3519 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers National Corp.; Acquisition of Bank

Manufacturers National Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain 80 percent or more of the voting shares of Manufacturers Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3520 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

G & R, Inc. (d.b.a. Needham Insurance Agency)

G and R, Inc., (d.b.a. Needham Insurance Agency), Troy, Kansas, has applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the sale of decreasing term credit life, credit accident and health and level term credit life sold only in connection with demand notes; all such insurance sold exclusively in connection with extensions of credit by Troy State Bank, Applicant's subsidiary bank. These activities would be performed from offices of Applicant's subsidiary in Troy, Kansas, and the geographic area to be served is Doniphan County. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank, not later than February 22, 1980.

Board of Governors of the Federal Reserve System, January 28, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3521 Filed 2-1-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on January 28, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CPSC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 22, 1980, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Consumer Product Safety Commission

The CPSC requests clearance of a new, single-time, voluntary questionnaire to be submitted to state designees involving the Commission's State Contracts Program. This program involves the Commission's contracting with the states to handle the Commission activities of inspection, sampling, and information and education activities. The proposed questionnaire is to be sent to both participating and nonparticipating states in this program, with the nonparticipating states receiving an abbreviated version of the questionnaire. The purpose of the survey is to evaluate the cost effectiveness of this CPSC program and to evaluate the current effectiveness of its administration. The evaluation is being conducted by the Division of Evaluation of the CPSC and will be used to assess the adequacy of the current program. In addition to the survey of designees for each state and Puerto Rico, the Virgin Islands, and the District of Columbia, the CPSC will also be surveying its regional office staff for a complete evaluation of the program. It is expected that the requested return date for the questionnaire will be approximately 30 days after the final GAO clearance. This evaluation is the first complete evaluation since the program began in 1974. The CPSC estimates the time to complete the questionnaire will average approximately 1 hour for nonparticipating states and 7 to 9 hours for participating states.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Annual Report Supplement—Corporate Disclosure, in accordance with the order of the Interstate Commerce Commission in Docket No. 36141, Corporate Disclosure Regulations, decided May 13, 1977. The disclosure of corporate structure information will be filed by carriers with annual operating revenues of $20 million, or more, subject to Section 11145 of the Interstate Commerce Act. Included are motor carriers (property and passenger), inland and coastal waterway carriers, maritime carriers, private car lines, refrigerator car lines and freight forwarders. The Supplemental report will enable the Commission to effectively "help identify possible conflicts of interest, misuse of insider information, exertion of undue influence facilitated by concentration of control, and other possible problems contrary to public interest." The information requested will be beneficial to the public, government agencies and corporate management. The reporting will be mandatory and available for use by the public. The ICC estmates that respondents will number approximately 257 and that reporting burden will average 166 hours per report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-3502 Filed 2-1-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Graduate Medical Education, National Advisory Committee; Meeting Cancellation

In FR. Doc. 80-1080 appearing at page 2707 in the issue for Monday, January 14, 1980, the February 11-12, 1980, meeting of the "Graduate Medical Education National Advisory Committee" has been cancelled.

Dated: January 29, 1980.

James A. Walsh,

Associate Administrator for Operations and Management.

[Fr Doc. 80-3492 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-83-M

Office of Education

Grants to State Educational Agencies To Meet the Special Educational Needs of Migratory Children; Closing Date for Receipt of Applications

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Receipt of Applications for Fiscal year 1981.

Applications are invited for grants under the Migrant Education Program of Title I of the Elementary and Secondary Education Act.

Authority for this program is contained in Sections 141-143 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 2761, 2762, 2763)

Eligible applicants are State educational agencies (SEAs).

The purpose of this program is to provide grants to SEAs to establish or improve programs designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for grants must be mailed or hand delivered by April 15, 1980, unless, in response to a specific request, the U.S. Office of Education extends this closing date for a particular SEA.

The U.S. Office of Education may grant an extension if the applicant SEA can show that the April 15 closing date creates difficulties for that State because it has already planned its application development and submittal according to a different schedule. If an applicant SEA needs an extension of the April 15 closing date, it should request

one as soon as possible, and in any event, prior to April 1, 1980.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to Mr. Vidal A. Rivera, Jr., Acting Director, Division of Migrant Education, Office of Compensatory Educational Programs, U.S. Office of Education, 400 Maryland Avenue, S.W. (FOB–6, Room 2031), Washington, D.C. 20202.

An applicant SEA must show proof of mailing consisting of one of the following:

(a) A legibly dated U.S. Postal Service postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing:

(a) A private metered postmark.

(b) A mail receipt that is not dated by the U.S. Postal Service.

An applicant SEA should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant SEA is encouraged to use registered or at least first class mail. Each late applicant SEA will be notified that its application will not be considered—unless that SEA has been granted an extension to the closing date.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Division of Migrant Education, Office of Compensatory Educational Programs, Room 2031, Federal Office Building 6, 400 Maryland Avenue, S.W., Washington, D.C.

The Division of Migrant Education will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: Grants are made to SEAs to establish or improve programs designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers. An applicant SEA must submit a State Program Plan covering a period of one program year and a State Monitoring and Enforcement Plan for a period of from one to three years.

APPLICATION FORMS: Application forms and instructions will be mailed to all eligible SEAs. Additional forms and instructions may be obtained by writing to the U.S. Office of Education, Division of Migrant Education, Office of Compensatory Educational Programs, 400 Maryland Avenue, S.W. (FOB–6, Room 2031), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

SPECIAL PROCEDURES: Each applicant SEA is subject to the requirement in the Office of Education's General Provisions for Programs Regulations (45 CFR Part 100b) that gives the State's Governor up to 45 days to comment on the State Plan.

Each applicant SEA is also subject to the requirements of Section 435 of the General Education Provisions Act with respect to publication of the State Program Plan. Section 435 of the General Education Provisions Act requires the SEA to publish the State Program Plan in a manner that assures circulation throughout the State. The SEA must publish the State Program Plan at least 60 days prior to its submission to the Commissioner, and must establish a 30-day comment period.

APPLICABLE REGULATIONS: The regulations applicable to this program include the following:

(a) The Migrant Education Program Regulations (45 CFR Part 116d). These regulations were published as a notice of proposed rulemaking in the **Federal Register** on May 14, 1979 (44 FR 28184). Applicant SEAs should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Title I General Provisions Regulations (45 CFR Part 116).

(c) The Office of Education's General Provisions for Programs Regulations (45 CFR Parts 100 and 100b).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in proposed form in the **Federal Register** on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the Office of Education's General Provisions for Programs Regulations (the current 45 CFR Parts 100 through 100c). When it becomes effective, EDGAR will govern applications and grants under this program.

If material changes are made in the final regulations governing this program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

FURTHER INFORMATION: For further information, contact Mr. Vidal A. Rivera, Jr., Acting Director, Division of Migrant Education, Office of Compensatory Educational Programs, U.S. Office of Education, 400 Maryland Avenue, S.W. (FOB–6, Room 2031), Washington, D.C. Telephone (202) 245–2222.

(20 U.S.C. 2761, 2762, 2763)

(Catalog of Federal Domestic Assistance No. 13.429; Educationally Deprived Children-Migrants)

Dated: January 29, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80–3498 Filed 2–1–80; 8:45 am]

BILLING CODE 4110–02–M

National Advisory Council for Career Education; Meeting

AGENCY: Office of Education, National Advisory Council for Career Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463). This document is intended to notify the general public of their opportunity to attend.

DATE: March 6, 7, 1980.

ADDRESS: Room 3000, FOB #6, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Frank K. Babcock, Office of Education, Office of Career Education, 7th and D Streets SW., Room 3100, ROB #3, Washington, D.C. 20202 (202) 245–2284.

The National Advisory Council for Career Education is established under section 406 of the Education Amendments of 1974, Pub. L. 93–380, (88 Stat. 552, 553.) The Council is directed to:

Advise the Commissioner of Education on the implementation of section 406 of the Education Amendments of 1974, sections 331–336 of the Education Amendments of 1976, and the Career Education Incentive Act and carry out such advisory functions as it deems appropriate, including reviewing the operation of these

sections and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purpose of career education as described in Section 406 and in the Career Education Incentive Act.

The Assistant Secretary shall, to the extent practicable, seek the advice and assistance of the Council concerning the lifelong learning activities authorized by sec. 133, Part B, Title I of the Higher Education Act of 1965, as amended.

The meeting of the Council shall be open to the public. The meeting will be held on Thursday, March 6, 1980 and will begin at 9:00 A.M. and end at 5:00 P.M.; and Friday, March 7, 1980 from 9:30 A.M. to 1:30 P.M. The meeting will be held at the Federal Office Building #6 (FOB #6), located at 400 Maryland Avenue, SW. (Room 3000), Washington, D.C. 20202.

The proposed agenda includes: (1) Swearing in of New Members; (2) Discuss Structure and Function of Council; (3) Update and Concept of Career Education; (4) Career Education in the 1980's; (5) Discussion of Council Concerns About Career Education; (6) Council Priorities for 1980; (7) Establishing Agendas for Future Meetings; (8) Other Business.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at 7th and D Streets, SW., Room 3100, ROB #3, Washington, D.C. 20202.

Signed at Washington, D.C. on February 1, 1980.

John Lindia,

Delegate, National Advisory Council for Career Education.

[Fr Doc. 80-3504 Filed 2-1-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Reassumption of Jurisdiction-Omaha Tribe of Nebraska, Macy, Nebr.

January 23, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian custody proceedings.

This is notice that a petition has been received by the Secretary from the Omaha Tribe of Nebraska, for the tribal reassumption of jurisdiction over child custody proceedings. The petition is under review, and may be inspected and copied at the Winnebago Agency Office, Bureau of Indian Affairs, Winnebago, Nebraska 68071.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-3599 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-02-M

National Park Service

[INT FES 80-7]

Proposed Feral Burro Management and Ecosystem Restoration Plan, Grand Canyon National Park, Ariz.; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for the proposed Feral Burro Management and Ecosystem Restoration Plan, Grand Canyon National Park, Arizona.

The final environmental statement considers a management plan to restore natural ecosystems in four impacted areas of the park. The plan proposes to remove approximately 350 feral burros, primarily through live removal by private groups or individuals and secondarily by shooting. A 2.5-mile section of the park boundary will be fenced to prevent entry of cattle and burros from adjacent Federal land.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102.

Southern Arizona Group Office, National Park Service, 1115 North First Street, Phoenix, Arizona 85004.

Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023.

Dated: January 30, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-3507 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-70-M

[INT FES 80-4]

Voyageurs National Park, Minn.; Availability of Final Environmental Statement for the Proposed Master Plan

Pursuant to section 102(2)(C) of the National Environmental Policy Act, of 1969 (83 Stat. 852, 42 U.S.C. 4332) the Department of the Interior has prepared a final environmental statement for the proposed master plan for Voyageurs National Park.

The final environmental statement considers the probable effects of implementing proposals to acquire land, determine levels of visitation, develop park access and internal transportation systems, coordinate with other programs and undertake various other actions to implement the general and specific mandates of Congress.

Copies of the final environmental statement are available from or for inspection at the following locations:

Superintendent, Voyageurs National Park, P.O. Box 50, International Falls, Minnesota 56649.

Regional Director, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102.

Dated: January 28, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-3506 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[Secretary's Order 3027, Amdt. 1]

Interim Legislative Authority for the Trust Territory of the Pacific Islands

This Notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1)(E). The Secretary of the Interior has issued Amendment 1 to Order No. 3027 dated December 31, 1979.

The Amendment, which is published in its entirely below, resulted from a December 3, 1979, meeting between the Secretary of the Interior and representatives of the out-going 6th Palau Legislature and the newly elected 7th Palau Legislature at which time spokemen from both legislative bodies requested that Order 3027 be amended so as to clarify questions concerning the organization of the Palau legislative body that had arisen following the publication of Order 3027. The amendment establishes that the legislature shall be organized, conduct its affairs in accordance with, and have the authority conferred on it by the Charter of the Palau Legislature of 1976; that the members of the Legislature may not simultaneously hold other

government employment; that the term of the 6th Legislature expired at noon on January 3, 1980, and the term of the 7th Legislature began at that time and date; that the terms of members-at-large comprised of members of the former Congress of Micronesia, as originally provided by Order 3027, expired at noon on January 3, 1980; and provides for revised procedures for the submission of legislation to the High Commissioner for approval or disapproval. The Amendment further provides that the 7th Palau Legislature shall remain in office until a successor Legislature is elected by law or a constitution has been adopted and put into effect in Palau.

Further information regarding the Amendment may be obtained from Mr. George Milner, Deputy Director, Office of Territorial Affairs, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202–343–4736.

Dated: January 25, 1980.

Larry E. Meierotto,

Assistant Secretary of the Interior.

Order No. 3027, Amendment No. 1

Subject: Interim transition to governments based on locally developed constitutions—Trust Territory of the Pacific Islands.

Section 1. *Purpose.* The purpose of this amendment is to clarify the purpose and intent of Order No. 3027 as it relates to the organization and status of the Palau Legislature and to revise and update sections 3 and 4 of that Order. This action is taken as a result of a meeting held by the Secretary of the Interior and representatives of the outgoing Sixth Palau Legislature and the incoming Seventh Palau Legislature on Monday, December 3, 1979, at which time it was agreed that clarifications are required.

Section 2. *Revocation.* Section 3, *Legislative Authority*, and Section 4, *Transition in Legislative Authority*, of Order 3027 are hereby revoked and a new Section 3, *Legislative Authority of the Palau Legislature*, and Section 4, *Members-at-Large*, are hereby approved to read as follows: "Section 3 *Legislative Authority of the Palau Legislature.* Pending the approval and the coming into effect of a constitution for Palau, the legislative authority of the Government of the Trust Territory within the District of Palau shall be vested in the Palau Legislature. The term of the 6th Palau Legislature shall expire as of noon on January 3, 1980. The term of the 7th Palau Legislature shall commence at noon on January 3, 1980, and it shall remain in office until a successor Legislature is elected according to law or a constitution has been adopted and put into effect in Palau. The Legislature shall be organized, conduct its affairs in accordance with, and shall have the authority conferred on it by the Charter of the Palau Legislature in effect on October 1, 1978, the effective date of Order No. 3027, subject to the following modifications:

a. *Legislative Power.* The legislative power of the Palau Legislature shall extend to all rightful subjects of legislation within the District of Palau except that no legislation may be inconsistent with:

(1) treaties or international agreements of the United States;

(2) laws of the United States applicable to the Trust Territory;

(3) Executive Orders of the President of the United States and Orders of the Secretary of the Interior; and

(4) Sections 1 through 12 of Title I of the Trust Territory Code (Bill of Rights).

No law shall be passed by the Palau Legislature imposing any tax upon property of the United States or property of the Trust Territory of the Pacific Islands, nor shall the property of non-residents be taxed at a higher rate than the property of residents. Any parts of any laws passed by the Palau Legislature in the aggregate imposing upon United States agencies, instrumentalities, contractors of the United States and their respective non-Micronesian citizen employees any greater tax, fee, revenue, duty, tariff, impost, charge, or cost of any kind than is imposed by Trust Territory of the Pacific Islands Public Law 4C–2 as amended prior to 1975 (77 TTC Chapter 11) shall to the extent that it imposed such tax, fee, revenue, duty, impost, charge, or cost, not be given effect, except that, the exemptions from such tax, fee, revenue, duty, tariff, impost, charge, or cost described above shall not be applicable to activities conducted exclusively for or on behalf of the Trust Territory of the Pacific Islands by (1) its agencies, instrumentalities, contractors, and their respective employees or (2) by non-military United States agencies, instrumentalities, contractors, and their respective employees. No import or export levies shall be imposed on goods between or among what were formerly the Districts of the Trust Territory, as described in Section 39 of the Code of the Trust Territory, or any political subdivision thereof.

b. *Regular Session.* There shall be a regular session of the Palau Legislature held in each year beginning on the third day of January and continuing for not to exceed fifty consecutive calendar days. The Legislature may provide for an additional regular session or sessions as it determines are necessary.

c. *Review of Bills.* In lieu of transmitting bills to the District Administrator pursuant to article IV of the Charter, bills passed by the Palau Legislature must be presented to and approved by the High Commissioner before they become law. The House of Chiefs shall be involved in the legislative process only in the manner prescribed by the Charter. If the High Commissioner does not act to approve or disapprove a bill within twenty calendar days of its receipt by him, it shall be deemed to become law as though he had approved it. If he disapproves a bill, he shall return it to the Legislature together with a statement of the reasons for his disapproval. If such a bill is repassed by a two-thirds majority vote of the Legislature, it shall again be presented to the High Commissioner. If he does not then approve it within twenty days of its receipt by him, he shall send it together with his comments thereon to the Secretary of the Interior. Within sixty days of receipt by him the Secretary of the Interior shall either approve or disapprove the bill. If he approves it, it shall become law; if he disapproves it or fails to act within sixty days, it shall not.

d. *Other Government Employment.* Members of the Legislature may not hold other Government office or employment during their terms of office. Any person employed by the Government of the Trust Territory or any political subdivision thereof must resign from such employment prior to the date upon which the person's legislative term of office commences. Service by legislative members on boards, authorities, commissions, committees, or similar bodies shall be without compensation.

e. *Executive Branch Proposed Legislation and Special Sessions.* Notwithstanding any other provision of the Charter of the Palau Legislature, the High Commissioner may submit proposed legislation to the Legislature prior to and during any regular session and may call special sessions of the Legislature if in his opinion the public interest so requires. No legislation shall be considered at any special session other than that specified in the call therefor or in any special message that the High Commissioner may send to the Legislature while in such special session.

f. *Rules of Procedure.* The standing rules of procedure of the Legislature shall be those adopted by that body in accordance with the Charter. Nothing in this Order shall preclude the Legislature from amending its rules of procedure in accordance with the Charter or this Order.

Section 4. *Members at Large.* The terms of office of the members-at-large of the Palau Legislature established pursuant to Section 4c of Order No. 3027, hereby revoked, shall expire coincidentally with those of the elected members of the Sixth Palau Legislature on January 3, 1980.

Section 3. *Other Legislative Bodies.* Nothing in this amendment to Order No. 3027 shall affect the legislative authority of the legislatures established under the constitutions of the Federated States of Micronesia or the Marshall Islands.

Section 4. *Definition.* Section 2.b. of Order No. 3027 is amended to read as follows: "As of the effective date of Amendment No. 1, the term 'Trust Territory Legislature' means the Palau Legislature unless the context of the Order clearly indicates otherwise."

Section 5. *Effective Date.* This amendment to Order No. 3027 is effective as of the date of issuance.

Dated: December 31, 1979.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 80-3604 Filed 2-1-80; 8:45 am]

BILLING CODE 4310-93-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: January 29, 1980.

In our decisions of January 8, 15, and 22, 1980, an 11.5-percent surcharge was

authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 12.4 percent. Accordingly, we are authorizing a 12-percent surcharge for this traffic. All owner-operators are to receive compensation at the 12-percent level. In addition, we are authorizing a 2.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, and a 4.6-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m., February 1, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis. Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel surcharge*

Base Date and Price Per Gallon (Including Tax)
January 1, 1979 ..... 63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)
January 28, 1980 ..... 109.9

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Less-Truckload Traffic)	(3) Bus Carriers
16.9	2.9	6.3
Percent Surcharge Developed		
12.4	2.1	4.6
Percent Surcharge Allowed		
12.0	2.1	4.6

[FR Doc. 80-3580 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Service Order No. 1399]

Pend Oreille Valley Railroad, Inc., Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

Decided: January 24, 1980.

Commission affirms service order granting authority to operate temporarily.

Under 49 U.S.C. 11123 Commission may in emergency situations grant authority for one carrier to operate temporarily over the lines of another carrier. The service order may be interpreted as a permit granting one carrier emergency authority to transport traffic over another carrier's lines when (1) an emergency exists due to a threatened or existing embargo, (2) another carrier is willing to operate without compensation over the embargoed line, and (3) the owner of the embargoed line does not object. *See* 49 U.S.C. 11123(a)(4).

John O' B. Clarke, Jr., for Railway Labor Executives' Association.

Ellen A. Efros and *Fritz R. Kahn* for Pend Oreille Valley Railroad, Inc., and the Port of Pend Oreille.

Thomas H. Ploss, John W. Rowe, and *Lawrence M. Stroik* for Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

On September 26, 1979, the Commission's Railroad Service Board (RSB) decided that an emergency existed requiring that Pend Oreille Valley Railroad, Inc. (POV) be authorized to begin operations over approximately 61.1 miles of Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee) tracks between Newport and Metaline Falls in Pend Oreille County, WA.

On September 27, 1979, Railroad Labor Executives' Association (RLEA) filed a petition to stay that decision and an appeal. On September 28, 1978 the RSB denied the petition to stay. For the reasons discussed below, we deny the appeal.

Background

This proceeding deals specifically with the Metaline Falls line of the Milwaukee. However, a brief review of recent events concerning the entire Milwaukee system will aid in our discussion.

A. The Milwaukee System

On December 19, 1977, the Milwaukee filed a petition for reorganization under section 77 of the Federal Bankrupty Act, 11 U.S.C. § 205. District Judge Thomas R. McMillen was assigned to oversee the reorganization. In turn he appointed first Stanley E. G. Hillman and then Richard B. Ogilvie as trustee.

In August of 1978 Trustee Hillman announced that the Milwaukee could no longer be operated as a transcontinental carrier. On April 23, 1979, Trustee Hillman petitioned the Court for permission to institute an embargo over approximately 8,000 miles of the Milwaukee's 10,000 mile system. On June 1, 1979, the Court denied the Trustee's embargo request.[1]

On August 10, 1979 the Trustee filed with the Court a reorganization plan proposing that service on all lines outside of a primarily Midwestern core of 3200 miles be discontinued. The Trustee also filed a second petition seeking an embargo of all lines outside the reorganization plan core as of October 1, 1979. On September 27, 1979, the Court ordered the embargo effective November 1, 1979.

Also in August the Trustee filed a petition with the Commission seeking abandonment of all lines west of Miles City, Montana. Docket No. AB-7 (Sub-No. 86), *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington and Oregon.*[2] These lines were excluded from the core system proposed in the reorganization plan.

On November 1, 1979, the Court-ordered embargo took effect. In response, Congress passed the Milwaukee Railroad Restructuring Act (MRRA or Milwaukee Act) on November 2; it was signed into law by the President on November 4, 1979.

Section 22(a) of the MRRA provided for continued operations over the Milwaukee's entire system as it existed on October 15, 1979, until the occurrence of an event described in section 22(b). The events listed in section 22(b) dealt with the filing, and eventual implementation of, an employee or employee-shipper ownership plan. On December 31, 1979, a section 22(b) event occurred when the Commission found the proposed employee-shipper ownership plan not feasible. Finance Docket No. 29171, *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Submissions under*

[1] On October 2, 1979, the United States Court of Appeals for the Seventh Circuit reversed the Court. *In the Matter chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor,* U.S.C.A. 7th Cir. No. 79-1494, decided October 2, 1979.

[2] This proceeding is still pending.

Section 6 of the Milwaukee Railroad Restructuring Act (not printed). At this time the Court has not authorized any cessation of service on the Milwaukee.

B. The Metaline Falls Branch

In August of 1978 Milwaukee filed an application to abandon service between Spokane and Metaline Falls, WA.[3] Docket No. AB–7 (Sub-No. 64F), *Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Discontinuance and Abandonment Between East Spokane, WA and Metaline Falls, WA.*

On July 2, 1979, Judge McMillen had authorized the Trustee to enter into a lease option agreement with the Port of Pend Oreille (Port) to lease approximately 1095 acres of operating railroad property, including the Metaline Falls Line. As part of the agreement Port had the right to purchase that property for a total cash consideration of $1,385,000. Furthermore, the Trustee was authorized to convey the property without further court order if Port exercised the option.

On September 19, 1979, Milwaukee and Port executed the lease-option agreement. That same day Port entered into a lease and operating agreement with Kyle Railways, Inc. (KRI). the following day POV, a wholly-owned subsidiary of KRI, was formed to operate the Metaline Falls line. POV then sent a letter to the Commission requesting issuance of an emergency service order pursuant to 49 U.S.C. § 11123 permitting it to commence operations over the line on October 1, 1979. That request was granted on September 26, 1979.

In granting the request the RSB relied on three factors: (1) the uncertainty of continued operation of the line by Milwaukee, (2) the shippers' need for continued service, and (3) POV's desire to begin rehabilitation before the winter. At the time, there existed the possibility that a court-ordered embargo would occur on October 1. Therefore, the RSB found an emergency justifying operation by POV over the Metaline Falls line.

On September 27, 1979, RLEA filed its appeal and petition for stay, arguing that (1) applicants had not demonstrated an emergency allowing invocation of 49 U.S.C. § 11123, and (2) section 11123 could not be used to bypass the statutory requirements for transferring ownership and/or operation of a line. The petition to stay was denied on September 28, 1979. No action was taken on the appeal at that time.

[3] This proceeding was consolidated with Docket No. AB–7 (Sub-No. 86) on August 24, 1979.

On October 2, 1979, RLEA instituted a court action in the United States Court of Appeals, District of Columbia Circuit, seeking review of our decision.[4] That proceeding is still pending.

In its orders the RSB never authorized the Milwaukee to discontinue its service over the Metaline Falls line. Despite that fact, the Milwaukee notified the Commission on October 3, 1979, that it had embargoed all traffic over the line.

As to the transfer of the line, the Trustee on December 3, 1979, filed a motion with the court seeking instructions regarding its conveyance. The motion noted that Port wished to exercise its purchase option on January 1, 1980. Argument on the motion, which was originally scheduled for December 10, 1979, was heard on December 28, 1979. At that time the Court delayed final action. On December 4, 1979, POV filed an application with the Commission seeking a certificate of public convenience and necessity under 49 U.S.C. § 10901 authorizing its operation of the Metaline Falls line. That application was designated Finance Docket No. 29197F. Also on December 4, KRI and Willis B. Kyle (Kyle) filed a petition seeking waiver of certain regulations in advance of the filing of an application by KRI and Kyle to control POV pursuant to 49 U.S.C. § 11343. That petition was designated Finance Docket No. 29198F.

Procedural Matters

As discussed above, an appeal and a petition to stay the RSB's decision were filed by RLEA on September 27, 1979. While the stay was denied on September 28, 1979, no action was taken on the appeal.

On November 5, 1979, POV[5] filed a late reply to the appeal, with a motion for waiver of the time limit imposed in Rule 21. POV stated that it did not reply to RLEA's appeal earlier because it interpreted the decision denying the stay to have also been a denial of the appeal.

On November 21, 1979, RLEA filed a motion to strike POV's reply. Although it did not oppose the request for leave to file late, it did object to certain statements in the reply. Specifically, RLEA requested that pages 3–5 and Appendix C be striken because POV improperly asserted facts not in evidence.

[4] The proceeding is docketed at No. 79–2165, the *Railway Labor Executives' Association v. Interstate Commerce Commission and United States of America.*

[5] Joining in POV's pleadings were Port, Lehigh-Portland Cement Company and Louisiana-Pacific Corporation.

POV filed a memorandum in opposition to RLEA's motion to strike on December 10, 1979. It argued that, because of the emergency nature of the proceeding, a written record could not be developed prior to the RSB's decision. Furthermore, it noted that RLEA had also sought to supplement the record in a petition to reopen the record filed November 29, 1979. In reply to RLEA's petition to reopen POV stated that it did not oppose the receipt of RLEA's additional material, but requested an equal opportunity to supplement the record. The Trustee also requested that the record be reopened.

We will grant all the requests to reopen and supplement the record, since we find that consideration of the materials would not unduly burden the record or prejudice the parties.

Discussion and Conclusions

After considering the record, the recent events concerning the Milwaukee, and the relevant law, including the Milwaukee Act, we must deny RLEA's appeal. In making this determination we looked at two basic questions: (1) did we have the authority to issue the emergency service order, and (2) does an emergency situation warranting POV operations still exist? For the reasons set forth below we find that we had the authority to issue the order and that even with the changed circumstances, there is a continuing emergency.

49 U.S.C. § 11123(a) (formerly 49 U.S.C. 1(15)) lists four specific actions the Commission may take when it "considers that a shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in a section of the United States".

Section 11123 enables us to grant a carrier emergency authority to operate temporarily over another carrier's line without government subsidization. Finance Docket No. 29144/Service Order No. 1411, *St. Louis S.W. Ry. Co—Temp. Authority—Chicago, R.I. & P.*, 360 I.C.C. 539 (1979) *(Tucumcari-TA case)*. In that decision we noted that the threshold jurisdictional test under section 11123 is the finding that an "emergency requiring immediate action exists in a section of the United States." Moreover, we noted that the courts have consistently shown substantial deference to our determination that an emergency exists.

In *United States* v. *Southern Railway Co*, 364 F. 2d 86, 93 (5th Cir. 1966), *cert. denied* 386 U.S. 1031 (1967), the court held that:

[T]he only test for the exercise of this power, as outlined by Congress, was the "opinion" of "the Commission" as to the

existence, at the time, of the type of emergency contemplated by the statute.

Significantly, the court also approved the analysis of the "emergency" standard by a three-judge court in *Daugherty Lumber Co.* v. *United States*, 141 F. Supp. 576, 580–81 (D. Or. 1956). That court concluded that the statute referred to a "legislative emergency," which has a broader meaning than:

> [T]he common place meaning of "an unforeseen combination of circumstances which calls for immediate action." Legislative emergencies are those situations where the common good or public interest is legislatively declared to be paramount to individual interests. Common knowledge tells us that legislative action effective immediately has, on legion occassions, been adopted to correct an adverse public interest situation of long standing.

Having determined that the courts have generally deferred to our expertise as to whether an "emergency" exists, we now turn to the specific facts that support an emergency finding in this case. First, we must determine whether the RSB was correct in finding that an emergency existed on September 26, 1979. Secondly, if the RSB was correct we must determine if an emergency warranting that service order continues today.

The record clearly demonstrates that on September 26, 1979, when the RSB acted, an emergency existed. It appeared that a court-ordered embargo of all of the Milwaukee's lines west of Miles City, could go into effect October 1, 1979. As the RSB noted, that possibility made continued operation of the line uncertain. In view of the need for continued service to shippers and rehabilitation of the line before the winter, the RSB found an emergency.

It should be noted that if the Commission had not directed emergency service the Metaline Falls line would have been without service for several days. A court-ordered embargo of the lines west of Miles City did go into effect on November 1, 1979, and did remain in effect until November 4, 1979, when the President signed into law the Milwaukee Act.

We now must consider whether that service order is justified in light of more recent events. The most significant of those events is the enactment on November 4, 1979, of the MRRA. Section 22(a) of this Act requires the Milwaukee to maintain its entire railroad system as it existed on October 15, 1979, until the occurrence of an event described in section 22(b). Section 22(b) deals with the filing and eventual implementation of an employee or employee-shipper ownership plan. As noted above, the Commission on December 31, 1979, found the proposed plan not feasible. That finding constituted a section 22(b) event. Therefore, the Milwaukee can now "embargo traffic . . . or abandon or discontinue service over any part of its railroad system." Section 22(a).

The MRRA provides in section 7(d) for the guarantee of Milwaukee Trustee certificates by the Secretary of Transportation, at the Trustee's request.

> To finance operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 22(b) of this Act or on April 1, 1980, whichever first occurs.

Since a section 22(b) event has occurred, it is now within the trustee's discretion whether to seek funding for all or any portion of its rail system. However, in view of the Milwaukee's previous embargo of all traffic on the Metaline Falls line, its pending application to abandon the line, and its attempts to convey the line to Port, it is unlikely that the Trustee will seek additional Federal funding for operation of the line. We believe that, unless POV is allowed to continue emergency service over the Metaline Falls line, rail operations on that line may cease. Accordingly, the emergency of impending cessation of service still exists.

Under section 11123(a), when the Commission finds an emergency, it may:

> * * * (2) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves subject to Subsection (b)(2) of this section; . . . and
>
> (4) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

In the *Tucumcari TA Case* we found that both of those subsections enabled us to grant a carrier emergency authority to operate temporarily over another carrier's line without government subsidization. That authorization is equally applicable here.

A review of the legislative history dealing with former section 1(15) supports this finding. The failure of the nation's rail system to handle the emergencies resulting from World War I, and the need for govèrnment control of the railroads for over 2 years, prompted Congress to confer on the Commission greater emergency powers. Towards that end the Commission's emergency powers listed in former section 1(15) were greatly expanded by the Transportation Act of 1920.

The congressional debate is replete with references to the broad grant of emergency powers given by the amended Act. The remarks of Congressman Esch, then Chairman of the House Committee on Interstate and Foreign Commerce, and principal author of the bill, are illustrative.

In his address to the House he states that after the bill's provisions were studied, Congress would "begin to realize to what extent we have enlarged the scope and power of the Federal authority in the great matter of transportation." 58 *Cong. Rec.* 8316 (1919). Specifically, in dealing with the powers granted the Commission he explains that

> We also give the Commission greater power in cases of emergency . . . We want the Commission to have the power to act promptly on the spur of the moment in case of emergency . . . *Id.*

After discussing particular provisions of the amended Act he concludes:

> We also give the Commission the right of treating each emergency as it arises and of also distributing cars and locomotives in order to meet such emergencies. With these powers granted and duly exercised we think many of the evils from which this county has suffered in years past may in a large degree be eliminated. *Id.*

Nowhere in Esch's remarks or in the debate is there any expression of congressional intent to limit the Commission's powers.[6] Indeed, the debate reveals the belief by all that the bill greatly expanded the Commission's powers, especially in dealing with emergencies.[7]

In light of this legislative history, we must act when an emergency exists, as it does here. Therefore, we believe our service order clearly to be an

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[6] In further debate the question was raised by Congressman Cooper of whether the bill took away any of the Commission's regulatory powers. Congressman Sanders, replied, "Not a bit." Congressman Cooper then asked whether the bill did not give the Commission more power. Congressman Sanders replied, "All the power in the world, practically." *Id.* at 8340.

In light of these vast powers an amendment to strike former sections 1(15) and 1(16) from the Act was suggested. The amendment was defeated 141–68. *Id.* at 8540–41.

Finally, Congressman Mooney stated, "this bill has given to the Interstate Commerce Commission more power in my judgement, than is possessed by any government agency except, perhaps, the Supreme Court of the United States." *Id.* at 8543.

[7] In a treatise dedicated to analyzing the legislative history of regulatory agencies former section 1(15) is described as follows:

> Paragraph (15) of the amended section broadens the power of the Commission, in times of shortage of equipment, congestion of traffic and other emergencies, to suspend existing rules for car service, and make other regulations in respect thereto and to the handling, movement, and routing of traffic, to the joint or common use of terminals, to preference or priority in transportation, to embargoes, and to the movement of traffic under permits. 2 *The Economic Regulation of Business and Industry*, 1474 (B. Schwartz ed. 1973).

appropriate action taken during an emergency to promote service in the interest of the public and of commerce, pursuant to section 11123(a)(2).

Furthermore, we take this opportunity to express our belief that section 11123(a)(4) gives us the power to issue permits for the movement of traffic during emergencies. Although we have allowed the Association of American Railroads to issue permits in the past, such a delegation in no way strips us of our legislative authority. Therefore, when (1) an emergency exists due to a threatened or existing embargo, (2) another carrier is willing to operate without compensation over the embargoed line, and (3) the owner of the embargoed line does not object, we can and will issue permits to direct movement of traffic. Since we regularly issue service orders in emergencies, we will interpret those orders as permits granting one carrier emergency authority to transport traffic over another carrier's lines. Therefore, our initial service order in this case shall now be considered a permit authorizing POV's temporary operations over the Metaline Falls line.

Having concluded that Congress, in amending former section 1(15) gave us these broad powers, we wish to address briefly another argument contending that we lack jurisdiction under section 11123. As noted in the *Tucumcari TA case,* the case primarily relied upon for arguing against our jurisdiction is *Peoria Ry. Co.* v. *United States,* 263 U.S. 528 (1924). We stressed that *Peoria* has been strictly limited to its particular facts. In 1926 Chief Justice Taft writing for a unanimous court discussed the *Peoria* decision. He noted that in *Peoria* the Court held that paragraph 15,

> Did not authorize the Commission to impose upon the terminal carrier, without a hearing, the affirmative duty not only of turning over its cars and equipment to another carrier, as contemplated in paragraph 15, but also that of itself doing the work of the transportation of and for another carrier. It was in this connection that this Court used the expression that car service connotes the use to which vehicles of transportation are put, but not the transportation service rendered by means of them. *United States* v. *Mich Cement Co.,* 270 U.S. 521, 527 (1926).

In conclusion, Taft notes that the *Peoria* opinion "expressly affirms the authority of the Commission to give regulatory directions for preference or priority in transportation." *Id. Peoria* does not prohibit the Commission from exercising its emergency powers as we did in the *Tucumcari TA case* or as the RSB did in authorizing POV's temporary operations.

Conclusion

For the foregoing reasons, we conclude that the RSB's decision authorizing POV to perform emergency operations over Milwaukee's Metaline Falls line should be affirmed. We note, however, that Milwaukee has an obligation to provide protection to the employees who were working on the Metaline Falls line when operations ceased. In a letter to the RSB dated October 1, 1979, Milwaukee informed the Commission that it would "honor and promptly process all valid labor protection claims directly related to the establishment of the new railroad service". We will hold Milwaukee to this commitment.

We find: This action will not significantly affect either the quality of the human environment or conservation of energy resources. *See* 49 CFR Part 1106, 1108 (1978).

It is ordered: (1) The motions to supplement the record filed by RLEA, POV and Milwaukee are granted.

(2) The appeal by RLEA is denied.

(3) This decision will be effective on its service date.

By the Commission: Chairman Gaskins, Vice Chairman Gresham, and Commissioners Stafford, Clapp, Trantum and Alexis. Commissioner Stafford concurring.

Agatha L. Mergenovich,

Secretary.

Commissioner Stafford, Concurring:

As I pointed out in my dissent in Finance Docket No. 29144, I question whether there is a legal basis for granting "temporary authority" in rail acquisitions.

Assuming *arguendo* that temporary authority is legally sustainable, this proceeding is typical of how we should exercise our now found power. Specifically, there are no rail protestants or evidence that rail carriers would be adversely affected. Moreover, the public will receive service and be free from the uncertainties facing the Milwaukee. Finally, the important issue of pre-judging the permanent application is somewhat academic because of the lack of rail and shipper protestants. Labor protestants generally are limited to employee protection conditions which can be handled efficiently in the context of the final decision.

In sum, I do not find the instant proceeding at all factually analogous to the Southern Pacific's 1,000 mile temporary authority application.

[FR Doc. 80-3585 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Investigation and Suspension No. 9248]

Surcharge on Pulpboard, Southwest to Official Territory, Conrail, January 1980

AGENCY: Interstate Commerce Commission.

ACTION: Notice of reopening of related proceedings in which divisions of revenue have been prescribed.

SUMMARY: The cited pending proceeding involves proposed surcharges on joint rates. The surcharge would accrue only to one carrier party to the rate. The Commission has determined that it is necessary to reopen related divisions proceedings where the basis for the divisions of revenue has been prescribed.

The divisions proceedings are reopened to the extent necessary in this proceeding. All parties to the original divisions proceedings are here placed on notice that the Commission may approve a resettlement of divisions with respect to the commodities involved in this surcharge proceeding if doing so is found to be necessary and appropriate.

FOR FURTHER INFORMATION CONTACT: Richard Felder—(202) 275-7693.

SUPPLEMENTARY INFORMATION: The reopended divisions proceedings are as follows: New England Divisions, 132 I.C.C. 93 (1927), *Divisions of Freight Rates,* 253 I.C.C. 673 (1942), *Official Western Trunk Line Divisions,* 269 I.C.C. 765 (1948), *Official-Southwestern Divisions,* 292 I.C.C. 447 (1954), *Official-Southern Divisions,* 337 I.C.C. 74 (1970), *Akron C. & Y.R. Co. v. Atchison, T. & S. FD. Ry. Co.,* 339 I.C.C. 540 (1971), and *Cincinnati, N.O. & T.P. Ry. Co.* v. *Akron, C. & Y.,* 353 I.C.C. 165 (1976).

Dated: January 23, 1980.

By the Commission, George M. Chandler, Acting Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3586 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-1 (Sub-68F)]

Chicago & North Western Transportation Co. Abandonment in Sac and Ida Counties, IA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided November 20, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line Railroad Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), the present

and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company, a distance of 41.1 miles of line of railroad in Sac and Ida Counties, IA. The line extends from milepost 4.5 near Lake View to milepost 45.6 at Holstein, IA. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance of acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3581 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[EX Parte MC71 (Sub-1)]

Owner-Operator Cost and Impact on the Rate Structure

AGENCY: Interstate Commerce Commission.

ACTION: Notice of termination of proceeding.

SUMMARY: The Regular Common Carrier Conference filed a request for investigation of the nature and level of owner-operator costs and their relation to the rate structure. Notice of this request was published (43 FR 6867, February 16, 1978). The notice indicated that the Commission would consider the institution of a proceeding related to owner-operator costs and sought comments on what such a proceeding might produce in the way of specific relief.

The Commssion has studied the comments and has determined not to institute a proceeding. We do not believe that the prescription of rules in this area is warranted or appropriate. Accordingly, this proceeding is discontinued.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275-7693.

Decided: January 24, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3582 Filed 2-1-80; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 253]

Motor Carrier Temporary Authority Applications

January 15, 1980.

The following are notices of filing of applications for temproary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC W-675 (Sub-5TA), filed September 26, 1979. Applicant: BULTEMA MARINE TRANSPORTATION, INC., P.O. Box 728, 559 East Western Avenue, Muskegon, MI 49443. Representative: Stanley Andrie, President, P.O. Box 728, 559 East Western Avenue, Muskegon, MI 49443. *General commodities* by non-self-propelled vessels and separate towing vessels and General towage by towing vessels. This is an extension of existing operating rights under authority in W-675, Between ports and points on Lake Ontario and tributary waterways as far as Montreal, Canada on the St. Lawrence Seaway. Applicant intends to tack with present authority for 180 days. Supporting shipper(s): CBI Nuclear Co., 2700 Channel Avenue, Memphis, TN 38113. Send protests to: C. R. Flemming, Room 201 Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 1824 (Sub-112TA), filed October 17, 1979. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry, (same as applicant). *Bananas,* from Albany, NY, Baltimore, MD, and Port Newark, NJ, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MO, MN, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI and DC, for 180 days. Supporting shipper(s): Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 07645. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 1924 (Sub-16TA), filed September 21, 1979. Applicant: WALLACE-COLVILLE MOTOR FREIGHT, INC., N. 400 Sycamore, Spokane, WA 99220.

Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *Common carrier:* regular routes: *General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* to serve the facilities of Hoerner Waldorf Division of Champion International Corp., at or near Schilling, MT as an off-route point in connection with applicant's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hoerner Waldorf Division of Champion International Corp., P.O. Drawer D, Missoula, MT 59806. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 2934 (Sub-54TA), filed November 20, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. *Television sets, cassetts recorders, video-tape recorders and accessories* from Bloomington, IN, to points and places in the States of AL, AR, CT, DC, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, VT, WV, and RI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): RCA Corporation, Building 204–2, Route 38, Cherry Hill, NJ 08358. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 4024 (Sub-14TA), filed November 13, 1979. Applicant: HORN TRUCKING CO., 300 Schmetter Road, Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Candy and confectionary, breakfast bars, snack food items, malt beverages, beer coolers and advertising materials,* between St. Louis, MO and its commercial zone and Chicago, IL and its commercial zone, on the one hand, and the States of IL, IN, MO, WI, and MI, for 180 days. Supporting Shipper(s): There are three supporting shippers. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 8515 (Sub-34TA), filed November 8, 1979. Applicant: TOBLER TRANSFER, INC., Jct. I–80 and I–89, Spring Valley, IL 61361. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *General commodities (except commodities in bulk, hhg as defined by the Commission, Classes A and B explosives, and those requiring special equipment),* between Burlington, IA; Quincy, Springfield, Decatur, and Delavan, IL; and LaFayette, IN on the one hand, and, on the other, points in IL on and north of U.S. Highway 36 and LaFayette, IN, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at Chicago, Rockford, Rock Island, and Peoria, IL. Supporting Shipper(s): Caterpillar Tractor Co., 100 N.E. Adams St., Peoria, IL 61629. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 8535 (Sub-105TA), filed October 26, 1979. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: James B. Nestor (same as applicant). *Iron or steel articles (except in dump vehicles),* from the facilities used by Weirton Steel Co. in Falls Township, Bucks County, at or near Morrisville, PA to points in CT for 180 days. Supporting shipper(s): Weirton Steel Div. National Steel Corp., S&M Bldg., Weirton, WV 26062. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 8535 (Sub-106TA), filed October 22, 1979. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Representative: James B. Nestor (same as applicant). *Hardboard, fibreboard or wall board and accessories and supplies used in their installation and distribution,* from the facilities of Homasote company at/or near Trenton, NJ to points in IL and IN, for 180 days. Supporting shipper(s): Homasote Company, Lower Ferry Rd., Trenton, NJ 08628. Send protests to: I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 11714 (Sub-4TA), filed November 20, 1979. Applicant: OLD HARBOR EXPRESS CO., INC., 307 White's Path, S. Yarmouth, MA 02633. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. *Kerosene No. 2 fuel oil, No. 4 fuel oil, No. 6 fuel oil, and diesel fuel, in bulk, in tank vehicles,* from Providence and Tiverton, RI to points in Barnstable County, MA, for 180 days. Supporting shipper(s): Monomoy Fuel, Inc., 678 Main St., Chatham, MA 02633, Northeast Petroleum Corp. of Cape Cod, 3 Coast Guard Road, Sandwich MA 02563. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 13134 (Sub-75TA), filed November 2, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. *Foundry sand additives,* from the facilities of The Hill & Griffith Co. at Cicero, IL to points in IN and OH on and north of U.S. Highway 70, for 180 days. Supporting shipper(s): the Hill & Griffith Company, 1262 State Avenue, Cincinnati, OH 45204. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th Street, Rm. 620, Philadelphia, PA 19106.

MC 13134 (Sub-80TA), filed November 13, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Iron and steel iron and steel articles,* from points in IN, IL, and PA to the facilities of Brown Steel Co. at Columbus, OH, for 180 days. Supporting Shipper(s): Brown Steel Co., 753 Marion Rd., P.O. Box 16502, Columbus, OH 43216. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 13134 (Sub-81TA), filed November 5, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Kyanite ore, bauxite ore, sand and magnesite,* from the facilities of C–E Minerals Division of Combustion Engineering, Inc., located in Wilkes and Sumter Counties, GA and Greene County, TN to points in IL, IN, KY, MI, MO, NY, OH, PA, WV, and WI for 180 days. Supporting Shipper(s): C–E Minerals Div., Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 14314 (Sub-38TA), filed November 20, 1979. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Limia, OH 45802. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Common carrier-regular routes: *General commodities (except those of unusual value, classes A & B explosives, commodities in bulk, and those requiring special equipment),* serving Wharton, OH and its commercial zone, as an off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Carrier intends to tack authority and to interline at all present interchange points. Supporting Shipper(s): Wharton Industries, Division of Continental Hydraulic Hose, P.O. Box 285, Wharton, OH 43359. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 20824 (Sub-46TA), filed November 8, 1979. Applicant: COMMERCIAL MOTOR FREIGHT, INC., 2141 South High School Road, Indianapolis, IN

46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46241. *Alcoholic Liquors* between the plant site of Hiram Walker & Sons, Inc., at Peoria, IL on the one hand, and, on the other, Bardstown, Coxs Creek and Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hiram Walker & Sons, Inc., P.O. Box 479, Peoria, IL 61651. Send protests to: Beverly J. Williams, Trans. Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 26825 (Sub-44TA), filed November 21, 1979. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Room heating devices* from Seattle, WA; San Diego, Los Angeles and San Francisco, CA to points in CA, OR and WA for 180 days. An underlying ETA seeks 90 days authority. Restriction: Restricted to the transportation of traffic having a prior movement by air or water. Supporting shipper(s): Energy Mart, Inc., Sam Frock, Traffic Manager, 14 Buxton Avenue, Springfield, OH 45505. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 30844 (Sub-666TA), filed November 8, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). *Toilet preparations (except commodities in bulk), when moving in vehicles equipped for protective service,* from Lakewood, NJ, to Davenport, Iowa City, and Cedar Rapids, IA, restricted to shipments originating at or destined to the facilities of Procter & Gamble at the named origin and destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 30844 (Sub-667TA), filed November 9, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). *Foodstuffs (except in bulk, in tank vehicles)* from the facilities of Sanna Division of Beatrice Foods Co. at Menomonie, Cameron, Vesper, Wisconsin Rapids, and Eau Claire, WI, to points in the U.S. (except AK and HI), restricted to the traffic of Sanna Division, Beatrice Foods Co., originating at the above origins and destined to the named destinations, for 180 days. Supporting Shipper(s): Sanna Division, Beatrice Foods Co., P.O. Box 8046, Madison, WI 53708. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 41404 (Sub-165TA), filed November 30, 1979. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Box 440, Fulton Highway, Martin, TN 38237. Representative: Mark L. Horne, Box 440, Fulton Highway, Martin, TN 38237. *Foodstuffs, except in bulk,* from Peru, IN to AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Universal Foods Corporation, 433 East Michigan St., Milwaukee, WI 53201. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 52005 (Sub-4TA), filed November 13, 1979. Applicant: OREGON-WASHINGTON TRANSPORT, 3322 N.W. 35th Avenue, Portland, Oregon 97210. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *General commodities,* except those of unusual value, and except dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between points in the Seattle commercial zone on the one hand and points in Oregon on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Far West Shippers Assoc., Kent, WA; Northwestern Glass/Seal, Seattle, WA; Taylor Edwards Warehouse & Transfer Co., Inc., Seattle, WA; Northern Lights Express, Seattle, WA; Sunset Northwest, Bellevue, WA; United Warehouse Co., Seattle, WA; Williams Form Engineering Corp., Bellevue, WA; Pacific Foods Products, Co., Seattle, WA; Alaska-Shell Inc., Seattle, WA. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 52704 (Sub-259TA), filed November 9, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *(1) Cellulose film or sheets, cellulose film coated with plastic, and plastic film, other than cellulose, and (2) Non-flammable compressed gases (dispersant or refrigerant gases), and cleaning compounds,* between the facilities of Southeastern Bonded Warehouse, Inc., located at or near Atlanta, GA, on the one hand, and, on the other, points in AL, FL, GA, NC and SC of 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeastern Bonded Warehouse, Inc., 5180 Phillip Lee Drive, S.W., Atlanta, GA 30336. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-260TA), filed November 20, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Tires,* from the facilities of The Goodyear Tire & Rubber Company at or near Gadsden, AL, to points in NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Goodyear Tire & Rubber Company, 464 Goodyear Avenue, Gadsden, AL 35093. Send protests to: Mabel E. Holston, TA, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-261TA), filed October 15, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth and John P. Tucker, Jr., 2200 Century Parkway, Suite 202, Atlanta, GA 30325. *Containers, container closures and container ends.* From the facilities of Texberry Container Corporation at or near Houston, TX to Opelousas, LA, for 180 days. Supporting shipper(s): Texberry Container Corporation, P.O. Box 33367, Houston, TX 77033. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-262TA), filed October 15, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Plastic containers,* from Birmingham, AL, to Pensacola, FL, for 180 days. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-263TA), filed November 20, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Tires,* from the facilities of The Goodyear Tire & Rubber Company at or near Gadsden, AL, to points in NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Goodyear Tire & Rubber Company, 464 Goodyear Avenue, Gadsden, AL 35093. Send protests to: Mabel E. Holston, TA, ICC,

Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-264TA), filed November 14, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Such commodities as are dealt in by retail or wholesale grocery or discount stores* between the facilities of Southeastern Bonded Warehouse, Inc., at or near Atlanta, GA, on the one hand, and on the other, points in KY, LA and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeastern Bonded Warehouse, Inc., 5180 Phillip Lee Drive, S.W., Atlanta, GA 30336. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 56244 (Sub-91TA), filed October 3, 1979. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: J. Bruce Walter, John M. Musselman, P.O. Box 1146, 410 N. Third St., Harrisburg, PA 17108. *(1) Metal and non-metallic strapping and (2) related strapping materials,* accessories, supplies and equipment, from the facilities of Samuel Strapping Systems at Columbus, OH and points in its commercial zone, to points in DE, MD, NY, NY, PA, VA, and Washington, DC, restricted to traffic originating at the named facilities and destined to the named destinations, for 180 days. Supporting shipper(s): Samuel Strapping Inc., 3900 Groves, Rd., Columbus, OH 43227. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 61825 (Sub-122TA), filed November 23, 1979. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same as applicant). *Furnaces, solar collectors, and air conditioners, and parts and accessories,* from Columbus, OH to Greensboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lennox Industries Inc., P.O. Box 400450, Dallas, TX 75240. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 61825 (Sub-123TA), filed September 20, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V.C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: Johne D. Stone (same as applicant). *Dry animal feed* (except in bulk), from Columbus, OH to Lynchburg and Richmond, VA and points in Brunswick, Campbell, Henrico and Mecklenburg Counties, VA and points in Stokes County, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boydton Farm Supply, P.O. Box 330, Boydton, VA 23917. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 65475 (Sub-33TA), filed October 18, 1979. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Iron and steel articles and equipment, materials, and supplies used in the manufacturing of iron and steel articles,* between Springfield, VA, and Burnsville, MN, on the one hand, and on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KY, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): VSL Corp., 8006 Haute Court, Springfield, VA 22150. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 85255 (Sub-70TA), filed November 19, 1979. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, 3720 Airport Way So., Seattle, WA 98124. Representative: James F. Walker, 3720 Airport Way So., Seattle, WA 98124. *Paper and paper articles,* between Lewiston, ID and Seattle, Redmond and The Overlake Industrial Park, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ridgway Packaging Corporation, 4111 156th Ave. N.E., Redmond, WA 98052. Send protests to: Shirley M. Homes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 94265 (Sub-333TA), filed November 28, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs,* in vehicles equipped with mechanical refrigeration (1) from the facilities of Kaukauna Dairy Products at or near Little Chute, WI to points in DE, MD, NJ, NY, PA, VA, WV, and DC; and (2) from Philadelphia, PA, New York City, NY and points in NJ to the facilities of Kaukauna Dairy Products at or near Little Chute, WI, for 180 days. Support shipper(s): Kaukauna Dairy Products, P.O. Box 1974, Kaukauna, WI 54130. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-334TA), filed November 28, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Meat, meat products and meat by-products* (except in bulk), (1) from the plantsite and storage facilities used by Country Smoked Meats, Inc. at or near Wooster, OH to points in MD, NC, VA, WV and DC; and (2) from points in VA to the plantsite and storage facilities used by Country Smoked Meats, Inc. at or near Wooster, OH, for 180 days. Supporting shipper(s): Country Smoked Meats, Inc., P.O. Box 981, Wooster, OH 44691. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-335TA), filed November 5, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Manufactured tobacco and tobacco products, related advertising and packaging materials, and display racks* from the facilities of R. J. Reynolds Tobacco Company, Winston-Salem, NC to Fargo, ND, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): R. J. Reynolds Tobacco Co., Fourth & Main Sts., Winston-Salem, NC 27102. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-336TA), filed November 7, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Toilet preparations,* from the facilities of Iodent Way Chemical Company, Inc., at Elizabethtown, TN, to points in GA, IN, KS, MA, MI, NV, NJ, NY, NC, OH, PA, RI, SC, TX, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Iodent Way Chemical Company, Inc., Elizabethtown, TN 37643. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 94265 (Sub-337TA), filed November 15, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. and 766,* from Southampton County, VA to points in NC and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. P. Beale and Sons, Inc., Route 2, Courtland, VA 23837. Send protests to: I.C.C, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 97394 (Sub-21TA), filed Nov. 29, 1979. Applicant: BOWLING GREEN EXPRESS, INC., P.O. Box 1899, Bowling Green, KY 42101. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *General commodities,* (with usual exceptions), between Somerset, KY and Nashville, TN, and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at Nashville, TN. Supporting shipper(s): 7 Supp. Shippers—Domiciled in KY. (Somerset Area), 9 Supporting Carriers—Domiciled in TN. Total—16. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky., 40202.

MC 98154 (Sub-19TA), filed November 9, 1979. Applicant: BRUCE CARTAGE, INCORPORATED, 3460 East Washington Road, Saginaw, MI 48601. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Merchandise as is dealt in by retail department stores,* (1) from the facilities of Montgomery Ward & Co., Incorporated at Sharonville, OH and Chicago, IL and their respective commercial zones, to retail stores, warehouses and catalog outlets of Montgomery Ward & Co., Incorporated at various MI points. (2) from the facilities of suppliers of Montgomery Ward & Co., Incorporated located at various MI points to the facilities of Montgomery Ward & Co., Incorporated at Sharonville, OH and Chicago, IL and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Ward & Co., Incorporated, P.O. Box 7337, Chicago, IL 60680. Send protests to: C. R. Flemming, D/S ICC, Room 201, Corr Building, 300 East Michigan, Lansing, MI 48933.

MC 98614 (Sub-15TA), filed September 10, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Petroleum and petroleum products,* in bulk, in tank vehicles, from West Memphis, AR and its commercial zone to Hayti and Poplar Bluff, MO and points in the commercial zones of each, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Van Oil, Inc. & Cris-Tol Oil Co., Inc., P.O. Box 722, Prescott, AR 71857. F & S Petroleum Company, P.O. Box 3203, Little Rock, AR 72203. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 102295 (Sub-41TA), filed November 16, 1979. Applicant: GUY HEAVENER, INC., 480 School Lane, Harleysville, PA 19438. Representative: Gerald Heavener (same as applicant). *Stone,* from Bucks County, PA to Walworth County, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The General Crushed Stone Co., Box 96, Quakertown, PA 18951. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 106674 (Sub-446TA), filed November 6, 1979. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Insulating material* from Newark, OH to points in and east of MN, IA, MO, AR & LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 106674 (Sub-447TA), filed October 25, 1979. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same as applicant). *Gas or electrical appliances and parts, materials, supplies and equipment used in the distribution or repair of appliances* from the facilities of Whirlpool Corporation at Evansville, IN to all points in the states of AL, AR, CT, IL, MD, MI, MO, NJ, NC, NY, OH, PA, SC, TN, TX, VA, WI for 180 days. Supporting shipper: Whirlpool Corporation, 2000 U.S. 33, North, Benton Harbor, MI 49022. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 107064 (Sub-139TA), filed November 26, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 220998, Dallas, TX 75222. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Liquefied Petroleum Gases* from Maysville, OK to Euless and Poyner, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United LP Gas Marketing, Inc., 6350 LBJ Freeway, Dallas, TX 75240. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 107295 (Sub-953TA), filed November 29, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. *Bentonite and soapstone (except in bulk),* from Gonzales, TX, to Omaha, NE; Jackson, MS; Tampa, FL; and Dry Branch, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Clay Products, Inc., P.O. Box 44, Gonzales, TX 78629. Send protests to: Transportation Specialist, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 107295 (Sub-955TA), filed November 21, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 68142. Representative: Richard D. Vollmer, P.O. Box 146, Farmer City, IL 61842. (1) Roofing (except in bulk), from Morris County, TX, to points in AR, LA, MS, and OK, and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above (over) from points in AR, LA, MS, and OK, to Morris County, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Daingerfield Manufacturing Co.; P.O. Box 639, Daingerfield, TX 75638. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 107295 (Sub-956TA), filed November 29, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. *Glassware NOE,* from Laredo, TX, to points in CA, VA, MD, NJ, and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riekes Crisa Corp., and Alco Standard Co., 1818 Leavenworth St., Omaha, NE 68102. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 107515 (Sub-1300TA), filed November 14, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., Fifth Floor, Lenox Towers South, Atlanta, GA 30326 (1) *Liquid soap, in plastic containers,* (a) from the facilities of Minnetonka, Inc. in the Minneapolis/St. Paul commercial zone, MN to the facilities of Minnetonka, Inc. in the commercial zones of Chicago, IL; Columbus, OH; Atlanta, GA; Dallas, TX; Kansas City, KS; and those points in NY and NJ within the New York City commercial zone, and (b) from the facilities of Minnetonka, Inc. in the Atlanta, GA commercial zone to points in the commercial zones of Memphis, TN; New Orleans, LA; Greenville, SC; Charlotte, Raleigh, Greensboro, and Winston-Salem, NC; Orlando, Tampa, and Miami, FL; and Birmingham, AL; (2) *plastic dispensing bottles and parts and accessories therefor,* (a) from Winona,

MN; New Berlin, WI; Washington Courthouse, OH; Clifton, NJ; and Harrisonburg, VA to the facilities of Minnetonka, Inc. in the Minneapolis, MN commercial zone, and (b) from Port Clinton, OH and Chicago, IL to Winona, MN; (3) *soap*, from West Warwick, RI to the facilities of Minnetonka, Inc. in the Minneapolis, MN commercial zone, for a period of 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minnetonka, Inc., Jonathan Industrial Park, Chaska, MN 55318. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1301TA), filed November 15, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Liquid soap, in plastic containers* from the facilities of Minnetonka, Inc. at or near San Jose, CA and Minneapolis, MN to Denver, CO and its commercial zone and Dallas, TX and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minnetonka, Inc., Jonathan Industrial Park, Chaska, MN 55318. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1307TA), filed November 21, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Frozen potatoes and potato products* from Clark, SD to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chef Reddy Foods Corp., Clark, SD 57225. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1308TA), filed November 30, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Fresh and frozen meat, and packinghouse products*, from Nashville, TN to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baltz Brothers Packing Co., 1612 Elm Hill Rd., P.O. Box 7191, Nashville, TN 37201. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1310TA), filed November 29, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., Fifth Floor, Lenox Towers South, Atlanta, GA 30326. *Animal feed ingredients, in bags; released value not exceeding .50 per pound*, from Chattanooga, TN to Rosemont, IL; Dallas, TX; St. Paul, MN; Kansas City, MO; and St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 107544 (Sub-152TA), filed October 12, 1979. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, VA 24354. Representative: Daryl J. Henry (same as applicant). *Chemicals, in bulk, in tank vehicles*, from Kingsport, TN to points in KY, MS, NC, OH, PA, SC, TN, VA. & WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCabe-Woody & Co., P.O. Box 876, Kingsport, TN 37662. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 109124 (Sub-95TA), filed November 5, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Pulpboard, wallboard, and fiberboard* from the facilities of Owens-Corning Fiberglass Corp. at or near Meridian, MS to points in the states east of the Mississippi River, for 180 days. Supporting shipper(s): Owens-Corning Fiberglass Corp., Fiberglass Tower, Toledo, OH 43659. Send protests to: I.C.C., 101 N. 7 St., Philadelphia, PA 19106.

MC 109124 (Sub-96TA), filed October 31, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Iron and steel articles (tinplate, sheet or scrap) and steel can ends*, between points in IN and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Can Corp., 8101 W. Higgins, Chicago, IL 60631. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 109124 (Sub-98TA), filed November 2, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Insulating material*, on flatbed trailers, from the facilities of Owens-Corning Fiberglass Corporation at Newark, OH, to points in the states east of the Mississippi River, for 180 days. Supporting shipper(s): Owens-Corning Fiberglass Corp., Fiberglass Tower, Toledo, OH 43659. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Rm. 620, Phila., PA 19106.

MC 109595 (Sub-23TA), filed October 10, 1979. Applicant: REX TRANSPORTATION COMPANY, Suite 207 Clausen Building, 1520 Woodward Avenue, Bloomfield Hills, MI 48013. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Cement*, from Detroit, MI, to points in OH and IN for 180 days. Supporting shipper(s): Medusa Cement Company, P.O. Box 5668, Cleveland, OH 44101. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 110325 (Sub-124TA), filed November 19, 1979. Applicant: TRANSCON LINES, 101 Continental Boulevard, El Segundo, CA 90245. Representative: Wentworth E. Griffin, Griffin, Dysart, Taylor, Penner & Lay, P.C. 1221 Baltimore Avenue, Kansas City, MO 64105. *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)*, serving the terminal facilities of Transcon Lines, at or near New Castle, IN, as an off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks up to 90 days operating authority. Applicant request authority to interline at various points throughout Transcon Lines route system and to tack this authority with authority it presently holds in No. MC-110325 and Subs thereto. Supporting shipper(s): There are no certificates of support attached, as this is a carrier's application for the relocation of a terminal facility. Justification given in the Feasibility Statement. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 111274 (Sub-56TA), filed November 27, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Fred C. Schmidgall, P.O. Box 351, Morton, IL 61550. *Contract carrier:* irregular route: *iron and steel and iron and steel articles*, from the facilities of U.S. Steel Corp. at or near Gary, IN, and South Chicago, IL, and Joliet, IL to the states of IL, (from Gary only), Iowa, KS, and MO, restricted to

shipments originating at the above named facility. Supporting shipper(s): United States Steel Corporation, 1000 E. 80th Pl., Merrillville, IN 46410. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 111594 (Sub-88TA), filed November 20, 1979. Applicant: CW TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Thomas O'Connor, 610 High St., Wisconsin Rapids, WI 54494. *General Commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, general commodities in bulk and those requiring special equipment,* from facility of the Richards Oil Co. at or near Savage, MN to all points in WI and the Upper Peninsular of MI, restricted to transportation of shipments originating at the facilities of Richards Oil Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richards Roofing Co., Inc., Port Richards, Savage, MN 55378. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 112184 (Sub-70TA), filed November 8, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., 11250 Kinsman Rd., Newbury, OH 44065. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Contract carrier-irregular routes: *Flour,* in bulk, in tank vehicles, from points in Cecil County, MD to points in CT, DE, MD, MA, NJ, NY, PA, VA, and DC, under continuing contract(s) with Ross Industries, Dept. of Cargill, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ross Industries, Dept. of Cargill, Inc., P.O. Box 2696, Wichita, KS 67201. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 112304 (Sub-225TA), filed October 12, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Cranes, truck mounted, and parts and attachments,* from Cedar Rapids, IA, to all points in and east of WI and IL, and in and north of KY and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harnischfeger Corp., P.O. Box 554, Milwaukee, WI 53201. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-226TA), filed November 13, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Structural iron and steel,* from the facilities of Precipitair Pollution Control Co., at Longview, TX to Cumberland City, TN and points within 5 miles thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Precipitair Pollution Control Co., P.O. Box 7202, Longview, TX 75601. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-227TA), filed October 26, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Metal articles,* between Aberdeen, NC, on the one hand, and on the other, points in and east of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carolina Galvanizing Co., P.O. Box 60, Aberdeen, NC. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-229TA), filed November 8, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). *Iron and steel articles* (1) from Houston and Lone Star, TX to Owensville, MO, and (2) from Owensville, MO to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): TSE Manufacturing, Inc., P.O. Box 515, Owensville, MO 60566. Send protests to: ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 112304 (Sub-230TA), filed November 16, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *FAB-RA-CAST Railroad/Highway Grade Crossings,* from Plant City, FL, to all points in the U.S., (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Szarka Enterprises, Inc., P.O. Box 2027, Livonia, MI 48150. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 113165 (Sub-11TA), filed October 9, 1979. Applicant: PENINSULA TRUCK LINES, INC., 6314 7th Avenue South, Seattle, WA 98108. Representative: Carl A. Jonson, P.S., 300 Central Building, Seattle, WA 98104. *General commodities, except those of unusual value, high explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading,* between Seattle and Tacoma, WA on the one hand and points in Grays Harbor, Kitsap and Mason Counties, WA on the other hand, and between points in said counties, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 21 statements of support attached to this application which may be examined at the ICC in Washington, D.C., or copies thereof at the field office named below. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 113974 (Sub-66TA), filed September 17, 1979. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same as applicant). *Sawmill machinery and parts thereof,* from the facilities of Forest-All Corporation located at Concord, NH to all points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Forest-All Corp., 39 Sheep Davis Rd., Route 106, Concord, NH 03301. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 114284 (Sub-86TA), filed November 29, 1979. Applicant: FOX-SMYTHE TRANSPORTATION CO., 1700 S. Portland, P.O. Box 82307, Oklahoma City, OK 73148. Representative: M. W. Thompson (same address as applicant). *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carriers Certificates,* 61 M.C.C. 209 & 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corp., at Cedar Rapids, IA, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 114334 (Sub-70TA), filed November 23, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Roofing materials and supplies (except in bulk),* from Little Rock, AR and its commercial zone to points in TN, MS, AL and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tarco, Inc., P.O. Box 3330, N. Little Rock, AR 72117. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 115654 (Sub-180TA), filed November 21, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., N.W., Washington, D.C. 20004. *Foodstuffs* (except in bulk), from the facilities of Green Giant Company at Belvidere, IL, to points in MO, MS, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Green Giant Company, 1100 N. 4th St., Le Sueur, MN 56058. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-176TA), filed November 20, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., N.W., Washington, D.C. 20004. *Lard, edible tallow, shortening, vegetable shortening, margarine, cooking oils, salad oils, and vegetable oils,* from the facilities utilized by Swift & Company at Chattanooga, TN, to points in AL, GA, NC, SC, VA, WV, KY, and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Swift and Company, P.O. Box 7068, Chattanooga, TN 37410. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 116544 (Sub-190TA), filed November 23, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: R. G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Canned foodstuffs,* other than frozen: (1) from St. Francisville, LA and Belledeau, LA to CO, FL, IA, IL, KS, MN, MO, NE, OK, TX, WI; and (2) from Turkey, NC to New York, NY, Philadelphia, PA, FL, IL, MO, NJ and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joan of Arc Company, Inc., 2231 Altorfer Dr., Peoria, IL 61614. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 116544 (Sub-191TA), filed November 23, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: R. G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Foodstuffs,* other than frozen (except in bulk), from the facilities of Vlasic Foods, Inc., at or near Greenville, MS to FL, GA, LA, TX, OK, MO, KS, CO, IL, NM, and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vlasic Foods, Inc., 33200 W. 14 Mile Rd. W., Bloomfield, MI 48033. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 117165 (Sub-59TA), filed October 30, 1979. Applicant: ST. LOUIS FREIGHT LINES, INC., P.O. Box 2140, Michigan City, IN 46360. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Gypsum and gypsum products, and materials and supplies used in the manufacture, installation and distribution of gypsum and gypsum products,* from the facilities of Georgia-Pacific Corp.—Gypsum Division at Grand Rapids, MI to points in IL, IN, and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corporation, Gypsum Division, 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 117574 (Sub-341TA), filed November 9, 1979. Applicant: DAILY EXPRESS, INC., 1076 Harrisburg Pike, P.O. Box 39, Carlisle, PA 17013. Representative: James W. Hagar, 100 Pine St., P.O. Box 1166, Harrisburg, PA 17108. (1) *Machinery and equipment,* and (2) *accessories, parts, materials and supplies used in connection with the installation, assembly, and construction of machinery and equipment used in the manufacture and production of color television picture tubes,* between Baltimore, MD; Cleveland, OH; Lancaster, PA; New York, NY; and Pittsburgh, PA, on the one hand, and on the other, all points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of shipments having a subsequent movement in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RCA, Cherry Hill Offices, Camden, NJ 08101. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 117765 (Sub-279TA), filed November 21, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Advertising matter and commodities used or distributed by retail or wholesale distributors or marketers of petroleum products in mixed truckloads with petroleum products,* (except products in bulk), from Ponca City, OK, to IL, IN, IA, MI, NE, and SD, for 180 days. Support shipper(s): Conoco, Inc., P.O. Box 2197, Houston, TX 77001. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73101.

MC 118865 (Sub-13TA), filed November 13, 1979. Applicant: CEMENT EXPRESS, INC., Hokes Mill Rd. & Lemon St., York, PA 17404. Representative: Jerome M. Mulroy (same address as applicant). *Cement (Portland and Masonry, in bulk or package),* from York, PA to points in IL, IN, and MI, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Medusa Cement Co., P.O. Box 5668, Cleveland, OH 44101. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 119864 (Sub-78TA), filed October 29, 1979. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, OH 43551. Representative: Brad A. James (same address as applicant). *Foodstuff* (except in bulk), from the facilities of Brooks Foods, Division of Curtice-Burns, Inc., located in Mt. Summit, IN to Chicago and Collinsville, IL, and St. Louis, MO commercial zone; from Collinsville, IL to Mt. Summit, IN, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Brooks Foods, Division of Curtice-Burns, Inc., Rt. 36, Mt. Summit, IN 47361. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 119864 (Sub-79TA), filed October 18, 1979. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, OH 43551. Representative: Brad A. James (same address as applicant). *Foodstuff* (except in bulk), from the facilities of Frigid Food Products, Inc. in Detroit, MI to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Frigid Food Products, Inc., 1599 E. Warren Ave., Detroit, MI 48207. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 119974 (Sub-92TA), filed November 13, 1979. Applicant: L.C.L. TRANSIT COMPANY, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54304. *Pineapple juice, in bulk, in tank vehicles,* from the plantsites and storage facilities of International Pineapple Company, at San Antonio, TX to Geneva, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: International Pineapple Company, San Antonio, TX. Send protests to: John E. Ryden, DS, ICC, 517 East Wisconsin Ave., Rm., 619, Milwaukee, WI 53202.

MC 120544 (Sub-2TA), filed November 7, 1979. Applicant: KELLER TRUCKING COMPANY, INC., 470 Old Skokie Road, Park City (Waukegan), IL 60085. Representative: Paul J. Maton, 10 South

LaSalle Street, Chicago, IL 60603. General commodities with the usual exceptions, between the counties of Lake, McHenry and Cook, IL and the counties of Kenosha, Racine, Milwaukee, Waukesha, Rock, Ozaukee and Walworth, WI. Between Galesburg, IL and the above named counties in WI for 180 days. An underlying ETA seeks 90 days authority. NOTE: Applicant does intend to interline with other carriers at Waukegan and Chicago, IL. Supporting shipper(s): There are 18 Supporting Shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 121654 (Sub-36TA), filed November 28, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby; Marc A. Pearl, Serby & Mitchell, P.C., 3390 Peachtree Road, NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Air pollution equipment, except that which because of size or weight requires the use of special equipment* from the facilities of Andersen 2000 at or near College Park, GA to points in Kern County, San Luis Obispo County, Los Angeles County and Orange County, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Andersen 2000, 200 Sullivan Road, College Park, GA 30337. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 123405 (Sub-78TA), filed October 30, 1979. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Frozen foodstuffs,* from the facilities of Imperial Freight Brokers, Inc. at Miami, FL to Hanover, PA, restricted to traffic originating at and destined to the above named origin and destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Imperial Freight Brokers, Inc., 7005 NW 41 St., Miami, FL 33166. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Phiildelphia, PA 19106.

MC 123914 (Sub-1TA), filed October 25, 1979. Applicant: W. C. KLINE, INC., 3200 S. 10th Ave., Altoona, PA 16603. Representative: Thomas M. Mulroy, Esq., 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Pre-cast concrete products* from Portage, PA to points in WV, NY, NJ, MD, OH, and DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dox Planks of Northeast Pa, Inc., Box 427, Portage, PA 15946. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 123914 (Sub-2TA), filed October 29, 1979. Applicant: W. C. KLINE, INC., 3200 South Tenth Avenue, Altoona, PA 16603. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Pre-cast concrete products,* from Portage, PA to points in PA, WV, NY, NJ, MD, OH, and DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dox Planks of Northeast Pa., Inc., Box 427, Portage, PA 15946. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19016.

MC 125335 (Sub-94TA), filed October 26, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Such commodities as are dealt in by wholesale and retail discount stores* (except commodities in bulk) from points in Broome and Chemung Counties, NY, and Lackawanna, Lehigh, Luzerne, Northampton and Wayne Counties, PA to Troy and Cape Girardeau, MO and DuQuoin, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northeastern Pennsylvania, Shipper's Cooperative Association, Inc., Penn Park Bldg., Suite 300, Pittston, PA 18640. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 128114 (Sub-9TA), filed October 1, 1979. Applicant: PAUL E. SAVAGE d.b.a., SAVAGE TRANSPORTATION COMPANY, P.O. Box 2422, Pasco, WA 99302. Representative; Donald A. Ericson, 708 Old National Bank Building, Spokane, WA 99201. *Fertilizer,* between points in WA, ID, and OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chevron Chemical Co. (a wholly owned subsidiary of Standard Oil of California), 7150 S.W. Hampton, P.O. Box 23048, Portland, OR 97223. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 129124 (Sub-27TA), filed October 26, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Cullet, in bulk, in dump vehicles,* from Baltimore, MD to Bridgeton, NJ and Port Allegany, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woodland Equipment & Supply Co., Woodland, PA 16881. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 133805 (Sub-43TA), filed October 30, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Foodstuffs (except in bulk)* from the facilities of Anderson Clayton Foods, Inc. located at Jacksonville, IL to the facilities of Anderson Clayton Foods, Inc. located at Sherman, TX, for 180 days. Underlying ETA filed. Supporting shipper(s): Anderson Clayton Foods, Inc., P.O. Box 226165, Dallas, TX 75266. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135364 (Sub-42TA), filed August 8, 1979. Applicant: MORWALL TRUCKING, INC., R.D. 3, Box 760, Mosvow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract; Irregular: Such commodities as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers and converters of paper and paper products (except commodities in bulk),* (1) Between Fitchburg, MA, on the one hand, and, on the other, Washington, DC, Fort Meade, Riverdale and Suitland, MD, Franconia and Herndon, VA, Deferiet, NY, and Kimberly and Neenah, WI. (2) Between Lexington, SC, on the one hand, and, on the other, Carpentersville and Geneva, IL, Auburn and Portland, ME, Holyoke, MA, Syracuse, NY, Monroe and Tarboro, NC, Archbold and Cincinnati, OH, Temple, TX, Burlington, VT, and Ashippun and Wisconsin Rapids, WI. (3) Between Monroe, NC, on the one hand, and, on the other, Holyoke and Fitchburg, MA, Deferiet and New York, NY, and Kimberly and Neenah, WI. (4) Between Belleville, NJ, and Chicago, IL. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paper, Printing and Forms Group, of Litton Business Systems, Inc., 601 River St., Fitchburg, MA 01420. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136445 (Sub-4TA), filed November 20, 1979. Applicant: ZENITH TRANSPORT, LTD., 2131 Willingdon Avenue, Burnaby, B.C., Canada V5C 5J4. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier: irregular routes: coffee in bags,* from Ports of Entry on the International Boundary line in Whatcom County, WA to points in CA, for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper(s): Nabob Foods Limited, 3131 Lake City Way, Burnaby, B.C. V5A, 3A3; Kelly Douglas & Co. Ltd, 4700 Kingsway, Burnaby, B.C. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 138824 (Sub-32TA), filed October 29, 1979. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: PAUL J. MATON, 10 S. LaSalle St., Rm. 1620, Chicago, IL 60603. *Contract carrier:* irregular routes: *Such commodities as are dealt in by wholesale and retail, chain grocery, hardware and drug stores, in containers; materials and supplies incidental to and used in the processing, manufacturing, of above items,* between facilities of S.C. Johnson & Son, Incorporated located at Racine and Waxdale, WI, on the one hand, and, on the other, points in the States of IL, IN, KS, KY, MI, MO, OH, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. C. Johnson & Son, Inc., Domestic & International, 2512 Howe Street, Sturtevant, WI. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 138824 (Sub-33TA), filed November 6, 1979. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: PAUL J. MATON, 10 S. LaSalle St., Suite 1620, Chicago, IL 60603. *Contract carrier,* irregular routes: *Food products, dry or liquid other than frozen, in containers; materials and supplies incidental to, and used in the processing, canning and bottling of said food products;* except commodities in bulk; between points and places in the states in and east of the states of ND, SD, NE, CO, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RJR Foods, Inc., P.O. Box 3037, Winston-Salem, NC 27102. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 140435 (Sub-6TA), filed November 2, 1979. Applicant: ADOBE INTERNATIONAL, INC., Box 3629, R.D. #3, Grove City, PA 16127. Representative: Brian L. Troiano, 918 16 St. NW., Washington, DC 20006. Contract carrier—irregular routes: *Coal, in dump vehicles,* (1) between points in Butler, Mercer, and Venango Counties, PA; and (2) from points in Mercer and Venango Counties, PA to the facilities of Cleveland Electric Illuminating Co. at or near Ashtabula, OH, under continuing contract(s) with Pengrove Coal Company, a Division of Adobe Mining Co., for 180 days. Supporting shipper(s): Pengrove Coal Co., P.O. Box 3629, Grove City, PA 16127. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 140484 (Sub-70TA), filed October 29, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). *Electric motors, electric welders, and parts and accessories for electric motors and electric welders, welding supplies and hand truck parts* (except commodities because of their size and weight requiring the use of special equipment) from the facilities of Lincoln Electric Company located in Cuyahoga and Lake Counties, OH to points in IA, KA, MN, and MO for 180 days. Supporting shipper(s): The Lincoln Electric Company, 22801 St. Clair Ave., Cleveland, OH 44117. Send protests to: Donna M. Jones, T/A, Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 142364 (Sub-27TA), filed October 26, 1979. Applicant: KENNETH SAGELY d.b.a. SAGELY PRODUCE, 2802 Kibler Rd., Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. *Flour and corn meal* (except in bulk), *bird seed, popcorn, feed and feed ingredients* from the facilities of Shawnee Milling Company, at or near Shawnee, OK, to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shawnee Milling Company, Inc., P.O. Box 1567, Shawnee, OK 74801. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142715 (Sub-77TA), filed October 29, 1979. Applicant: LENERTZ, INC., P.O. Box 479, So. St. Paul, MN 55075. Representative: K. O. Petrick, (same address as applicant). *Such commodities as are dealt in by wholesale, retail or chain food business houses (except commodities in bulk),* from the facilities of Carnation Company, Rochelle, IL, to points in IA, MN, MO, NE, ND, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th Street, Minneapolis, MN 55401.

MC 142994 (Sub-8TA), filed October 22, 1979. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 1030 Fifteenth St. NW., Suite 366, Washington, DC 20005. *Drugs, medicine, and chemicals (except in bulk), and materials and supplies used in the manufacture of the aforementioned commodities, moving in express service,* between Riverside, PA and Rahway, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065. Send protests to: ICC, Fed. Res. Bank Bldg., 110 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143794 (Sub-12TA), filed November 29, 1979. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Bruce E. Mitchell, 3390 Peachtree Road, NE, 5th Floor, Atlanta, GA 30326. Such commodities as are utilized by hospitals, nursing homes, health care centers and laboratories, and materials, equipment and supplies used in the manufacture, distribution and sale thereof, from Mount Prospect, IL to the facilities of McGaw Laboratories at or near Irvine, CA and Atlanta and Milledgeville, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McGaw Laboratories, 4801 Welcome All Road, Atlanta, GA 30349. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 144054 (Sub-9TA), filed November 23, 1979. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Road, Medford, Oregon 97501. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210, 503–226–3755. (1) Gift-Wrapped and Packaged Foods, Food Products, and Commodities Dealt in by Retail Gift Shops (Except Frozen) in Vehicles Equipped with Mechanical Refrigeration, (2) Plants and Bulbs when Moving at the same time and in the same Vehicle with the Commodities in (1) Above, and, (3) Empty Containers and Trailers between the facilities of Harry and David at Medford, Oregon, and Portland, Oregon, having a prior or subsequent movement by rail for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harry and David, P.O. Box 712, Medford, Oregon 97501, 503–776–2075. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, Oregon 97204.

MC 144585 (Sub-3TA), filed October 1, 1979. Applicant: SHANE TRANSPORTATION, INC., 403 Bank St., Lodi, OH 44254. Representative: E. H. van Deusen, Post Office Box 97, 220 W. Bridge St., Dublin, OH 43017. *Herbicides, (except in bulk),* from: North Little Rock, Arkansas to: Elkhart, Fort Wayne, Indianapolis and New Albany, Indiana; Chicago and Peoria, Illinois; Lexington and Louisville, Kentucky; Detroit, Grand Rapids, Kalamazoo and Lansing, Michigan; Buffalo, Rockester

and Syracuse, New York; Cincinnati, Cleveland, Columbus, Dayton, Springfield, Toledo and Youngstown, Ohio and Pittsburgh, Pennsylvania for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lakeshore Equipment & Supply Co., 300 S. Abbe Rd., Elyria, OH 44035. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 145194 (Sub-6TA), filed September 21, 1979. Applicant: WOOSTER MOTOR WAYS, INC., 1357 Mechanicsburg Rd., Wooster, OH 44691. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Cleaning, washing, buffing,* or *polishing compounds, textile softeners, lubricants, hypochloride solutions, deodorants, or disinfectants, paints, stains, or varnishes,* except commodities in bulk, (1) between the facilities of Economic Laboratory, Inc. at Avenel, NJ, on the one hand, and, on the other, points in IN, IL, PA, and the lower peninsula of MI; (2) between the facilities of Economics Laboratory, Inc. at or near Joliet, IL, on the one hand, and, on the other, points in PA and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 145664 (Sub-14TA), filed November 28, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55807. Representative: John M. LeFevre, James S. Holmes, Holmes & Graven, Chartered, 4610 IDS Center, Minneapolis, MN 55402. *Particle board or composition board,* from the United States—Canada International Boundary Line at or near Grand Portage, MN, to points in IL, IA, and to points in WI south of Hwy. 29; LIMITED TO traffic originating at facilities of MacMillan Bloedel Building Materials Limited and of Great Lakes Paper Company, Limited at or near Thunder Bay, Ontario, Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): MacMillan Bloedel Bldg. Materials, Ltd., Transportation Co-ordinator, P.O. Box 608, Thunder Bay, ONT P7C 4W6. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 145765 (Sub-6TA), filed October 31, 1979. Applicant: WIEST TRUCKLINE, INC., 1305 6th Avenue S.W., Jamestown, ND 58401. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. (1) *Frozen bread dough,* from the facilities of Dakota Bake & Serve located at or near Jamestown, ND, and Columbus, WI, to points in CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, ND, OH, OR, SD, UT, WA, WI and WY; and (2) *Raw materials, equipment and supplies used in the manufacture and distribution of frozen bread dough,* from points in IL, MN, MT and WI, to the facilities named in Part (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dakota Bake & Serve, Airport Road, Jamestown, ND 58401. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg., 657 2nd Avenue North, Fargo, ND 58102.

MC 146174 (Sub-6TA), filed October 17, 1979. Applicant: P. D. EXPRESS, 817 W. 5 Avenue, Columbus, OH 43212. Representative: Gregory A. Stayart, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Processed foodstuffs,* in containers, from Kokomo, IN, Leipsic, OH, Morton and Alsip, IL to points in OH, KY, PA, IN, MI, and WV, for 180 days, restricted to traffic originating at the facilities of Libby, McNeill & Libby at Kokomo, IN, Leipsic, OH, Morton and Alsip, IL and destined to the indicated destinations. Supporting shipper(s): Libby, McNeill & LIbby, 200 S. Michigan Ave., Chicago, IL 60604. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 146725 (Sub-7TA), filed October 17, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Hardwood lumber and hardwood flooring* from Nashville, TN to Salt Lake City, UT, for 180 days. Supporting shipper(s): Diehl Lumber Products, Inc., 1756 South 700 West, Salt Lake City, UT 84104. Send protests to: Lyle D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 148414 (Sub-1TA), filed October 19, 1979. Applicant: UNIDYNE CORPORATION, 981 Scott St., Norfolk, Va. 23502. Representative: Dale E. Forwood, (same address as applicant). Contract carrier-irregular routes: (1) *metal (aluminum and steel) fabricated products, fixtures, and accessories, such as are used in department stores, assembled and in kit form, including but not limited to tie racks; hat racks and clothes racks;* (2) *metal (iron, steel with plastic) athletics goods, sporting and gymnastic equipment (NOI), such as are used for exercising to develop body muscles, in tubular form and boxes;* (3) *wood display products, fixtures and accessories, such as are used in department stores, finished, framed, with and without glass, with and without storage shelves, assembled and in kit form,* from the plantsite of Advanced Metal Products Company, at or near Los Angeles, CA to New Orleans, LA; St. Paul, MN; Chicago, IL; and points in CT, MO, OH, TX, WV, FL, NC, SC, VA, MD, PA, NY, NJ, DE and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Advanced Metal Products Company, 1441 West El Cengundo Blvd., Compton, CA 90223. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 147464 (Sub-1TA), filed October 29, 1979. Applicant: FRANK KAISER, doing business as CHRISANDAD UNIVERSAL, 5461 N. East River Road, Chicago, IL 60656. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. (1) *Automotive parts and materials and supplies used in the manufacture of automotive parts (except in bulk),* (a) from Ft. Wayne, IN to the facilities of L.A. Commutator, Inc. at Ft. Worth, TX; (b) from the facilities of L.A. Commutator, Inc. at Ft. Worth, TX to points in IL, IN, IA, KS, MI, MO, OH and OK; (c) between the facilities of International Products & Manufacturing, Inc. at Palatine, IL, on the one hand, and, on the other, the facilities of Wabash, Inc. at Farmington, MO; and (d) from the facilities of Wabash, Inc. at Wabash, IN to the facilities of International Products & Manufacturing, Inc. at Palatine, IL; and (2) *magnetic computer tape,* from the facilities of Wabash Tape Corporation at Huntley, IL to the facilities of Wabash Tape Corporation at Paoli, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wabash, Inc., 200 East Daniels Road, Palatine, IL 60067. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148175 (Sub-1TA), filed September 28, 1979. Applicant: ROBERT W. DENTON, doing business as SPIRIT TRUCKING, 8700 South Wolf Road, Hinsdale, IL 60521. Representative: Robert W. Denton (same address as applicant). *Cleaning compounds, supplies and materials used in manufacturing and distribution of cleaning compounds, (except in bulk),* from facilities or storage facilities of the Amway Corporation located at or near ADA or Holland, MI to Chicago, IL. Restricted to traffic having an immediately subsequent movement by rail for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amway Corporation, 7575 E. Fulton Rd., Ada, MI 49355. Send protests

to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148215 (Sub-1TA), filed September 27, 1979. Applicant: HAROLD T. BLANKENSHIP, doing business as MUSICIANS EQUIPMENT TRANSPORT, Route 4, Box 482–B, Portsmouth, OH 45662. Representative: Stephen C. Fitch, 155 East Broad St, 16th Floor, Columbus, OH 43215. *Contract; Irregular: Equipment used by musicians for shows and concerts,* for the continuous movement of said equipment between all points in the United States except Alaska and Hawaii, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pure Prairie League, Inc., P.O. Box 1745, Chillicothe, OH 45601. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th Street, Rm. 620, Philadelphia, PA 19106.

MC 148435R (Sub-1TA), filed October 16, 1979. Applicant: ED OCHYLSKI, doing business as ERO TRANSIT LINES, 4224 S. Racine, Chicago, IL 60609. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. (1) *Meat and meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A & 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),* (2) *Packinghouse supplies and equipment,* (1) From the facilities of the Illinois Meat Company at or near Des Moines, IA and Chicago, IL to points in MA, MO, IL, IN, IA, OH, PA, NY, MA, NJ, WI, NE and MI. (2) From points in MN, MO, IL, IN, IA, OH, PA, NY, MA, NJ, WI, NE and MI to the facilities of The Illinois Meat Company at or near Des Moines, IA and Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Illinois Meat Company, 42245 Racine Avenue, Chicago, IL 60609. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148485 (Sub-1TA), filed October 26, 1979. Applicant: EARL P. SMITH doing business as, SMITH CARTAGE COMPANY, 104 S. Vine Ave., Marshfiled, WI 54449. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract irregular: Barn stanchions, barn cleaners, water cups, barn ventilators, silo unloaders, cattle feeders, *manure pumps, and barn stalls,* between Manawa & Marshfiled, WI and points in IL, IA, MI, MN, ND & SD, restricted to transportation performed under a continuing contract(s) with Berg Equipment Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Berg Equipment Co., RFD #3, Marshfield, WI 54449. Send protests to: Gail Daugherty, TA, I.C.C., 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 48535 (Sub-1TA), filed October 22, 1979. Applicant: BAKERSTOWN TRANSPORTATION CORP., P.O. Box 12, Middlesex Street, Bakerstown, PA 15007. Representative: Arthur J. Diskin, Esquire, 806 Frick Building, Pittsburgh, PA 15219. *Contract; Irregular:* (a) *Petroleum and petroleum products* in containers, from McKees Rocks, PA, and Bakerstown, PA, to points in OH, WV, NY, and MI, under continuing contract with Arco Petroleum Products Co., of Los Angeles, CA; (b) *Empty steel drums* from points in OH, WV, NY, and MI to the plant site of Bakerstown Container Corp., in Bakerstown, PA., under continuing contract with Bakerstown Container Corp., of Bakerstown, PA., for 180 days. Supporting shipper(s): Bakerstown Container Corp., Box 51, Bakserstown, PA 15007. Arco Petroleum Products Company, 515 S. Flower Street, Los Angeles, CA 90071. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th Street, Rm. 620, Philadelphia, PA 19106.

MC 148624 (Sub-1TA), filed October 22, 1979. Applicant: BOB'S TRANSPORT & STORAGE CO., INC., 7081 Oakland Mills Rd., Columbia, MD 21046. Representative: Ronald K. Kolins, Esq., 333 N. Fairfax St., Alexandria, VA 22314. *Articles dealt in by wholesale and retail grocery stores, and in connection therewith, equipment, materials and supplies used in the conduct of such business,* between points in MD on the one hand, and, on the other, points in DE, NJ, NY, PA, VA, WV, and Washington, DC, for 180 days. Supporting shipper(s): There are six shippers. Their statement may be examined at the office listed below and Headquarters. Send protests to: I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 148634 (Sub-1TA), filed October 9, 1979. Applicant: COMPASS TRANSPORTATION COMPANY, 620 "C" Street, San Diego, California 92101. Representative: William R. Daly, San Diego Traffic Services, 4340 Vandever Avenue, Suite "S", San Diego, California 92120. *Contract;* Irregular; *Cleaning, scouring and washing compounds and green headless frozen shrimp,* between Los Angeles, California and Phoenix, Tempe and Nogales, Arizona, for 180 days. Supporting shipper(s): Ocean Garden Products, Inc., Traffic Coordinator, 620 "C" Street, San Diego, CA 92138. International Distributing company, Traffic Manager, 7130 Miramar Rd., San Diego, CA 92116. Send protests to: Irene Carlos, TA, I.C.C., 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148744 (Sub-1TA), filed November 30, 1979. Applicant: BOWMAN TRUCKING, INC., 2606 2nd Street, LaGrande, OR 97850. Representative: Lenora Brewer (Double L's Bookkeeping Service), 1604 U Avenue, LaGrande, OR 97850, 503–963–6029. Ore in Bulk (Belly Dump Equipment) from the facilities of B. F. B. Enterprises, Inc. at or near Mountain City, Nevada to Tacoma, Washington, and/or Casper, Wyoming, Butte, Montana, Kellogg, Idaho, and Pinehurst, Idaho and Mountain Home, Idaho, for 180 days. Supporting shipper(s): B. F. B. Enterprises, Inc., Mountain City, NV 89831. Send protests to: R. V. Dubay, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 148785 (Sub-1TA), filed November 15, 1979. Applicant: SUDDEN MOVING & STORAGE, INC., doing business as SUDDEN TRUCKING COMPANY, 5154 Kennedy Avenue, Cincinnati, OH 45213. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of auto parts,* between Columbus, OH, on the one hand, and on the other, Leades, MO; Atlanta, GA; Van Nuys, CA; Chicago, IL; Indianapolis, IN; and Cadillac, Flint and Pontiac, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harper Industries, Incorporated, 315 Graham St., Columbus, OH 43203. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 148794 (Sub-1TA), filed November 23, 1979. Applicant: THOMAS BROS. TRUCKING, INC., Ludlow, IL 60949. Representative: Robert T. Lawley, Attorney, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier:* irregular route: *windows and doors,* from Rantoul, IL to points in the United States, except AK and HI, for the account of Caradco Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Caradco Corp. (A Subsidiary of Bendix Forest Products Corp.), P.O. Box 920, Rantoul, IL 91866. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 148854 (Sub-1TA), filed December 11, 1979. Applicant: KYKER TRANSPORT CO., 303 Sunset Lane, Mt. Morris, IL 61054. Representative: Abraham A. Diamond, 29 S. LaSalle, St., Chicago, IL 60603. *Contract carrier:* irregular route: (a) *Material handling machines and equipment; and* (b) *Material, equipment and supplies used in the manufacture sale and distribution*

of material handling machine and equipment, between the facilities of General Kinematics Corporation at or near Crystal Lake, Rockford and Woodstock, IL on the one hand, and , on the other, points in AL, IN, KY, MI, NY, OH, PA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Kinematics Corporation, 777 Lake Zurich Rd., Barrington, IL 60010. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 148805 (Sub-TA), filed November 26, 1979. Applicant: POLAND SPRING LEASING CORP., Poland Spring, ME 04274. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Contract: Irregular: (1) *Water,* in containers, and (2) *equipment, material and supplies* used in the bottling and distribution of water between Poland Spring, ME, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, PA, MD, VA, and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Poland Spring, Inc., Poland Spring, ME 04274. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 148965 (Sub-1TA), filed November 26, 1979. Applicant: CLARK BROS. TRANSPORTATION, INC., 1808 30th Street, North, Birmingham, AL 35203. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. (1) *Iron and steel and iron and steel articles;* (2) *Pipe, valves, hydrants and fittings;* (3) *Metal and metal articles:* (4) *Paper, plastic, paper and plastic articles;* (5) *Lumber, lumber products and particleboard;* (6) *Containers, ends and closures;* (9) *Materials, equipment and supplies used in the manufacture and sale of the foregoing commodities* (except commodities in bulk in tank vehicles), between points and places in the states of AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX. Supporting shipper(s): There are 18 supporting shippers to this application, the statements of which can be examined in the Washington, DC, Office or the Birmingham, AL Field Office. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616–2121 Building, Birmingham, AL 35203.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3584 Filed 2-4-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[TA-406-6]

Anhydrous Ammonia From the U.S.S.R.; Investigation and Hearing

Investigation instituted. Following receipt on January 18, 1980, of a request from the President (reproduced below), the U.S. International Trade Commission on January 28, 1980, instituted an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) to determine, with respect to imports of anhydrous ammonia, provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States, which is the product of the Union of Soviet Socialist Republics (U.S.S.R.), whether market disruption exists with respect to an article produced by a domestic industry. Section 406(e)(2) of the Trade Act defines market disruption to exist within a domestic industry whenever "imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

The President made the request pursuant to section 406(c) of the Trade Act, having found under that section that there are reasonable grounds to believe that market disruption exists with respect to such anhydrous ammonia the product of the U.S.S.R. The President also found, pursuant to section 406(c), that emergency action was necessary and took action, under sections 202 and 203 of the Trade Act, limiting the quantity of such anhydrous ammonia the product of the U.S.S.R. which may enter the United States during the period January 24, 1980, to January 24, 1981, to 1,000,000 short tons (Proclamation 4714 of January 18, 1980, published in the **Federal Register** of January 21, 1980 (45 FR 3875)).

The text of the President's letter to the Commission is as follows—

January 18, 1980

The Honorable Catherine M. Bedell,
Chairman, International Trade Commission, Washington, D.C. 20436.

Dear Madam Chairman: Pursuant to section 406(c) of the Trade Act of 1974, I have today found that there are reasonable grounds to believe that market disruption exists with respect to imports to anhydrous ammonia, provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States, from the Union of Soviet Socialist Republics. I therefore request that you initiate an investigation on such articles under section 406(a) of the Trade Act of 1974.

Sincerely,

Jimmy Carter.

Public hearing. A public hearing in connection with this investigation will be held in Washington, D.C., at 10:00 a.m., e.s.t., on Monday, March 3, 1980. The hearing will be held in the Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the hearing should be received in writing in the Office of the Secretary to the Commission not later than 5:00 p.m., Tuesday, February 19, 1980.

A prehearing conference in connection with this investigation will be held in Washington, D.C., at 9:30 a.m., e.s.t., on Thursday, February 21, 1980, in Room 117, U.S. International Trade Commission Building, 701 E Street, NW.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than Monday, March 10, 1980.

Issued: January 30, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3609 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-60]

Certain Automatic Crankpin Grinders; Commission Order

Complainant Landis Tool Company filed a motion with the United States International Trade Commission on December 28, 1979, seeking an order tolling the time for filing a petition for reconsideration pursuant to Commision rule 210.56 (19 CFR 210.56) of the Commission's determination and order in the Certain Automatic Crankpin Grinder Investigation No. 337–TA–60, until resolution of its petition for a writ of mandamus filed concurrently with the motion in the United States Court of Customs and Patent Appeals. Complainant's motion also sought an order tolling the time for filing an appeal

pursuant to section 337(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1337).

After consideration of the matter, the Commission determined that good and sufficient reason for tolling the time for filing a petition for reconsideration has not been shown, and that the Commission has no authority to toll the time for filing an appeal in the United States Court of Customs and Patent Appeals.

Accordingly, it is hereby ordered that complainant's motion for a tolling of time is denied.

Issued: January 29, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3610 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-41]

Certain Fish; Report to the President Regarding Investigation

January 17, 1980.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (19 U.S.C. 2251(d)(1), 88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation relating to certain fish.

On the basis of the information developed in investigation No. TA-201-41 the Commission (Chairman Bedell not participating) determines that cod, cusk, haddock, hake, pollock, whiting, wolf fish, Atlantic Ocean perch, Pacific rockfish (including Pacific Ocean perch), flounder, turbot, and all other flatfish, except halibut, provided for in items 110.15, 110.35, 110.40, 110.45, 110.47, 110.50, 110.55, 110.57, and 110.70 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission instituted this investigation under the authority of section 201(b)(1) of the Trade Act on September 5, 1979, following receipt on August 20, 1979, of an amended petition filed by the Fishermen's Marketing Association of Washington, Inc., Seattle, Washington, and the Coast Draggers Association, Westport, Washington.

The investigation was undertaken to determine whether cod, cusk, haddock, hake, pollock, whiting, wolf fish, Atlantic Ocean perch, Pacific rockfish (including Pacific Ocean perch), flounder, turbot, and all other flatfish, except halibut, provided for in items 110.15, 110.35, 110.40, 110.45, 110.47, 110.50, 110.55, 110.57, and 110.70 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

A public hearing in connection with the investigation was held in Seattle, Washington, on November 13 and 14, 1979. All interested persons were afforded the opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[1] Notice of the investigation and hearing was duly given by publishing the notice in the **Federal Register** of September 12, 1979 (44 FR 53112). A corrected notice of investigation was issued on September 20, 1979, and published in the **Federal Register** of September 26, 1979 (44 FR 55442).

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic producers and importers, and from the Commission's files, other Government agencies, and information presented at the hearing and in briefs filed by interested parties.

Views of the Commission [2]

On the basis of information developed during this investigation, we determined that certain groundfish as described in the Commission's notices, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industry producing the like or directly competitive products.

The Trade Act of 1974 (Section 201(b)(1)) requires that each of the following conditions be met before an affirmative determination can be made.

(1) There are increased imports (either actual or relative to domestic production) of an article into the United States;

(2) A domestic industry producing an article like or directly competitive with the imported article is seriously injured, or threatened with serious injury; and

(3) Such increased imports of an article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Specifically, we find that neither the second nor the third criteria under section 201(b)(1), as set forth above, have been met. We generally do not reach the third issue (causation) unless the first two are satisfied, but in this case we thought it appropriate to discuss issues frequently raised during the investigation.

The Domestic Industry and the Imported Articles of Concern

The petitioners are two fishermen's associations in the state of Washington, the Fishermen's Marketing Association, Seattle, Washington, and the Coast Draggers Association, Westport, Washington. However, the petition is supported by all major fishermen's associations on the west coast and two major fishermen's associations on the east coast. The domestic industry consists of those fishermen in the entire United States whose vessels are devoted to the harvesting of certain fish, specifically cod, cusk, haddock, hake, pollock, whiting, wolf fish, Atlantic Ocean perch, Pacific rockfish, except halibut, provided in TSUS item 110.15, 110.35, 110.40, 110.45, 110.47, 110.50, 110.55, 110.57, and 110.70. The above described fish are collectively refered to in these views as "groundfish" because they are generally found or caught on or near the sea bottom (the "ground"). The articles under investigation are only those groundfish that are fresh, chilled, or frozen and provided for in subpart A of part 3 of schedule 1 of the TSUS. They enter the United States in three general categories: (1) Whole groundfish—whole, or processed by removal of heads, viscera, fins, or scales, or any combination thereof, but not otherwise processed; (2) groundfish blocks—frozen blocks of fish that have been skinned and boned, whether or not divided into pieces, and frozen into blocks, each weighing over 10 pounds; and (3) groundfish fillets—fresh, chilled, or frozen fish in other forms, virtually all in the form of fillets.

A Domestic Industry Producing an Article Like or Directly Competitive With an Imported Article

Whole groundfish.—In 1978, nearly 60 percent of the U.S. imports of fresh, chilled, or frozen whole groundfish were imported in frozen form. While the level of imports of frozen fish in 1978 was higher than in any of the preceding four years, the U.S. fishermen that comprise

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[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[2] Vice Chairman Bill Alberger and Commissioners George M. Moore and Paula Stern. Chairman Catherine Bedell did not participate.

the affected industry sell virtually all of their catch in fresh or chilled form, at substantially higher prices than could be obtained for frozen whole fish. In 1978, imports of the like and directly competitive products, fresh or chilled whole groundfish, were lower in volume than during any of the 4 preceding years. As discussed more extensively in the following section on groundfish fillets, the fresh or chilled products of the fisheries industry are not like or directly competitive with the frozen products.

Groundfish fillets.—During the period January 1974-September 1979, 97.5 percent of all imports of groundfish fillets were frozen. On the other hand, the U.S. fishermen sell nearly all their groundfish to wholesalers or processors at a price geared for the fresh whole fish and fresh fillet market. Since a fresh fillet is considered to be a better fish product than a frozen fillet, it commands a much higher price. Thus U.S. fishermen can obtain a premium price for fresh groundfish because processors can cover these costs and make a profit at current fresh fillet prices.

The price differential between fresh and frozen whole fish and fresh and frozen fillets is significant. For example, although prices of fresh domestic cod fillets and imported frozen fillets have both increased since 1974, the price differentials between the products and the rates of increase have varied sharply. The average monthly wholesale price of fresh domestic cod fillets at the New York City Fulton fish market was $1.02 in 1974 while the average wholesale price for packages of frozen Canadian cod fillets was $.71, a 31 cent differential. During the next year, the fresh fillet price rose to $1.26 while the frozen fillet price fell to 63 cents thus widening the margin to 63 cents. In the following three years, fresh fillet prices rose much more rapidly than those imported frozen fillets further widening the margin between the two products. By June of 1978, the last period for which comparisons are possible, fresh fillets were selling at $2.23 per pound, compared with only 89 cents for imported frozen fillets. Because movements in prices of domestic fresh fillets and imported frozen fillets are not related, these products are not truly like or directly competitive with each other.

U.S. production of frozen fillets occurs only when processors are unable to sell their fresh fillets in the market prior to spoilage. Once the fillet is frozen, the processors suffer a loss on the product because they have already paid a "premium" (or "fresh") prices for the groundfish from the fishermen and are forced to sell at the lower frozen price.

To sell frozen fillets successfully, the entire processing operation must be geared to the production of frozen fillets. The groundfish should be purchased in volume at low prices and then processed by machines and quickly frozen to retain as much texture and flavor as possible. Few groundfish processors in the United States engage in such operations. Rather, they freeze their fillets only as a last resort. Thus, it is clear that the vast majority of groundfish fillet imports, and the increasing imports of frozen whole groundfish, are not competitive with the U.S. produced article.

Groundfish blocks.—For the past several years, the United States has imported over 99 percent of its consumption of groundfish blocks. Until 1978, production of groundfish blocks in the United States was only an intermediate step by seafood processors in the production of their own fish sticks and fish portions. In late 1978 and 1979, two U.S. companies bought the production machinery necessary to commercially produce groundfish blocks. Their basic problem at present is securing a high volume of low-priced groundfish from U.S. fishermen. Furthermore, "prevention of establishment of an industry" is not an issue in investigations under section 201 of the Trade Act of 1974.[3] Clearly, increasing imports of fish blocks during 1974–78 were not like or directly competitive with the products of a U.S. industry. It is too early to tell how well the new U.S. fish block industry will compete with established import competition.

Increased Imports

In the categories which we find directly competitive with domestic products, imports increased slightly from 1974 through 1978. However, imports of fresh or chilled whole groundfish and groundfish fillets during the first three-quarters of 1979 exceeded imports for all of 1978. The import to consumption ratio for these categories climbed to 9.44 percent for January-September 1979 compared to 6.33 percent for the same period in 1978. Clearly, imports are increasing within the meaning of section 201(b)91).

[3] Section 337(a) of the Tariff Act of 1930, as amended, (19 U.S.C. 1337) provides in relevant part that "Unfair methods of competition and unfair acts * * * the effect or tendency of which is * * * to prevent the establishment of such an industry * * * are declared unlawful." Under section 701(a)(2)(B) (countervailing duties) and section 731(2)(B) (antidumping) of the Trade Agreements Act of 1979, the Commission determines whether "the establishment of an industry in the United States is materially retarded". This investigation, however, is under a statute in which these issues are not relevant.

Serious Injury

The second criterion concerns whether the domestic industry is suffering "serious injury or the threat thereof." The Trade Act does not define the term "serious injury," but instead provides guidelines in the form of economic factors which the Commission is to take into account. Section 201(b)(2) of the Trade Act provides that the Commission, in determining whether there is serious injury, is to take into account, "all economic factors which it considers relevant, including (but not limited to) * * * the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry * * *." We have also considered the following economic factors: Prices, production, cost of production and lost sales.

The information before us demonstrates that the economic health of the domestic fishermen improved in the years immediately prior to 1979. However, in 1979 the economic situation was not as positive.

Capacity and capacity utilization—After the introduction of the "200 mile limit", the U.S. industry started to modernize and expand the groundfishing fleet. Spurred by government guaranteed loans, the west coast groundfishing fleet increased by 95 new boats in 1979 alone. There have also been increases in the size of the fishing fleets in New England. Thus U.S. capacity to harvest groundfish has risen significantly. However, government conservation quotas on the east coast and trip limits by groundfish processors on the west coast have severely limited the utilization of the newly expanded fishing fleet. U.S. landings of groundfish have increased over the comparable period in 1978, but there are more vessels and thus each boat is catching fewer fish.

Profit-and-loss experience—From the limited number of questionnaires received from the U.S. fishermen, it appears that prior to 1979 the entire industry was on an upswing. As U.S. landings increased and prices also increased, the financial picture of the U.S. industry rapidly improved. The increased profitability probably contributed to the decision by many boat owners to invest in newer and larger boats. However, in 1979, the financial picture started to reverse itself. Factors which have aggravated the fishermen's financial situation in 1979 have included large increases in the cost of fuel, ice, and groceries. The

Commission did not receive any financial data from east coast fishermen.

Employment—Although the Commission received sparse employment data from U.S. fishermen, it is believed that the expansion of the fishing fleets has brought with it a large increase in employment in the groundfishing industry.

Prices—In general, prices received by U.S. fishermen have risen significantly in recent years. The largest increases have occurred in west coast markets. Between January of 1976 and January of 1979, prices of most classes of fresh groundfish rose by 50 to 100 percent. The largest increase was recorded for dressed black cod (sable fish), which more than tripled, rising from 24 cents per pound to 75 cents per pound during this period. By comparison, the U.S. Labor Department's wholesale price index for meat, fish, and poultry increased by only 26 percent between January of 1976 and January of 1979.

Partly as a result of seasonal factors and short term fluctuations caused by storms, trends in prices received by U.S. fishermen in east coast markets are difficult to analyze during the most recent three-year period. However, the data presented in tables 11b–14 of the report indicate that east coast prices for all classes of fresh fish surveyed rose significantly between January of 1974 and October of 1979. The largest increase was recorded for ocean perch, which climbed by more than 100 percent from 9.9 to 21.4 cents per pound during this period.

Prices of most types of imported fresh and frozen fillets and groundfish blocks have also risen significantly in recent years. Thus, there is no evidence from the data that these products, which compete in varying degrees with U.S. fresh fish, have been suppressing domestic prices.

Production—U.S. landings of groundfish increased from 395 million pounds in 1974 to 576 million pounds in 1978—an increase of 46 percent. As previously stated U.S. landings of groundfish in the first nine months of 1979 were higher than in the comparable period of 1978.

Cost of production—The doubling in fuel costs in 1979 severely affected the U.S. fishermen in their efforts to remain profitable. Furthermore large increases in the cost of ice and groceries increased the "costs of production" for groundfishing. These factors will continue to be a problem in the near future.

Lost sales—Although there were allegations of lost sales made at the public hearing in Seattle, Washington, the Commission did not receive any material to support such allegations.

Considering all these factors, we do not find that serious injury exists within the meaning of the Trade Act.

Substantial Cause

The only issue remaining is whether increased imports of whole fish (in 1979) and fresh fillets (in 1979) are a substantial cause of serious injury or threat thereof (neither of which were found to exist) to the U.S. industry that is dedicated to the "fresh fish market".

Imports might well be a problem to the U.S. fishing industry but our investigation has revealed that a too-rapid expansion of the fishing fleet on the west coast is the primary problem of west coast U.S. fishermen, and that the conservation quotas on the east coast are the primary problem for east coast fishermen.

In 1979, 95 new boats entered the Pacific fishing fleet, and more are currently being built. A number of new groundfish processors have entered the groundfish market to service many of the new boats. However, west coast landings have increased substantially and strict "trip limits" have been imposed by processors unable to sell all of the fish supplied to them by fishermen. Overproduction has glutted the west coast market which has not grown as rapidly as production.

On the east coast, the issue is fairly simple. Conservation quotas on cod, haddock and flounder, which dominate the catches of New England fishermen, have resulted in substantial reductions in capacity utilization of the New England fleet. The New England fishermen sell all that they are allowed to harvest and could sell more if the quota were liberalized. Their current problems are clearly the conservation quotas and not the small quantity of imports of fresh whole groundfish and fresh fillets.

Conclusion

We conclude that the domestic industry is *not* being "seriously injured" within the meaning of that term in the Trade Act. While some factors indicate problems in this industry, they are not caused by import competition.

Issued: January 27, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3807 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Release for Public Comment of U.S. Administration Draft Comments on Draft Chapters of the Harmonized Commodity Description and Coding System

AGENCY: United States International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332–73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of, and draft U.S. comments on, the following chapters of the Harmonized Commodity Description and Coding System.

Chapter 56: Wadding, felt and nonwovens; special yarn; twine, cordage, ropes and cables and articles thereof
Chapter 57: Textile floor coverings
Chapter 58: Knitted or crocheted fabrics; pile and chenille fabrics; tufted textile fabrics; woven fabrics of metallised yarn; gauze; tulle and other net fabrics; trimmings
Chapter 59: Impregnated or coated textile fabrics; elastic textile fabrics; textile articles of a kind suitable for industrial use
Chapter 60: Articles of apparel and clothing accessories, knitted or crocheted
Chapter 61: Articles of apparel and clothing accessories, not knitted or crocheted
Chapter 62: Other made up textile articles
Chapter 63: Old clothing and old textile articles; rags

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by February 29, 1980.

HEARING: Parties desiring the Commission to hold a hearing on these draft chapters of the Harmonized Code should contact the Secretary of the Commission by February 22, 1980, and show good cause for holding a hearing.

COPIES OF DOCUMENTS: Copies of the draft chapters and draft U.S. comments thereon which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties upon request.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Nomenclature, Valuation and Related Activities, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone: 202/523–0370.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to obtain the comments and views of interested parties with respect to the above mentioned draft chapters of the Harmonized Commodity Description

and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332–73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices * * *.

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Commitee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. proposals with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapters of the Harmonized Code released for public comment today relate specifically to the Technical Team drafts of these chapters and should be read in conjunction therewith.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976), September 1, 1977 (42 FR 44852 of September 7, 1977), February 7, 1978 (43 FR 5902 of February 10, 1978), October 16, 1978 (43 FR 48723 of October 19, 1978), February 14, 1979 (44 FR 10435 of February 20, 1979), May 16, 1979 (44 FR 29740 of May 22, 1979), and September 5, 1979 (44 FR 53112 of September 12, 1979), the Commission identified those chapters which have been considered thus far by the Harmonized System Committee, and the chapters for which a Technical Team draft has been released.

Issued: January 28, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-3606 Filed 2-1-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Attorney General

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants by Eastern Associated Coal Corp.

In accordance with Department policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on January 17, 1979, a proposed consent decree in *United States of America* v. *Eastern Associated Coal Corp.*, Civil Action No. 77–367, was lodged with the United States District Court for the Western District of Pennsylvania. Eastern Associated Coal Corp. operates a coal mine known as the Delmont Mine in Westmoreland County, Pennsylvania.

The proposed consent decree brings the defendant into compliance by January 1, 1980 with the discharge limitations in its NPDES permit. The consent decree also requires the defendant to pay $60,000 within 60 days after entry of judgment. In addition, it requires Eastern Associated Coal Corp. to pay stipulated penalties to the United States if it fails to meet the terms of its compliance schedule.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of Pennsylvania, 66 United States Post Office & Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219; at the Region III office of the Environmental Protection Agency, Enforcement Division, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 1728, 9th 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 of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Eastern Associated Coal Corp.*, W.D. Pennsylvania, Civil Action No. 77–367, D.J. 90–5–1–1–658.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-3501 Filed 2-1-80; 8:45 am]

BILLING CODE 4410-01-M

Law Enforcement Assistance Administration

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice that the National Minority Advisory Council on Criminal Justice Results Conference subcommittee will meet on Friday, February 15, 1980. The meeting will be held at the Peachtree Plaza Hotel in Atlanta, Georgia, located at Peachtree and Cain Streets and will begin at 10:00 a.m.

The meeting will focus on the planning of the NMACCJ National Results Conference including topics for workshops, selection of speakers, and identification of participants.

Anyone wishing additional information should contact either Ms. Peggy Triplett, LEAA-NMACCJ Coordinator at 633 Indiana Avenue, NW, Washington, DC 20531, (202) 724-5933; or Mr. Alan G. Boyd, NMACCJ Staff Director, 1990 M Street, NW, Suite 200, Washington, DC 20036, (202) 862-9348.

Peggy E. Triplett,

Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 80-3605 Filed 2-1-80; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Connecticut Light & Power Co., etc.; Issuance of Additional Relief from ASMW Section XI Inservice Inspection (Testing) Requirements

On September 19, 1979, the U.S. Nuclear Regulatory Commission (the Commission) issued Amendment No. 64 to Provisional Operating License No. DPR-21, and granted relief from certain requirements of the ASME Code, Section XI (44 FR 56411, October 1, 1979), to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (the licensees), for the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut.

The amendment incorporated into the Technical Specifications an inservice inspection and testing program that meets the requirements of 10 CFR 50.55a.

By letter dated December 18, 1979, as supported by the safety evaluation pages enclosed thereto, the Commission has granted additional relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the licensee. The additional relief relates to the valve testing program for the facility's non-Emergency Core Cooling Systems. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The additional relief is effective as of its date of issuance.

The request for relief 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 letter and the appropriate safety evaluation pages granting relief.

The Commission has determined that the granting of the relief 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 action.

For further details with respect to this action, see (1) the licensee's submittal dated September 13, 1979, (2) Amendment No. 64 to License No. DPR-21, dated September 19, 1979, and the Commission's related Safety Evaluation (SE), and (3) the Commission's letter to the licensee dated December 18, 1979, and the enclosed revised page 20 and new pages 22a through 22f for the above referenced SE. 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 Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. 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 18th day of December, 1979.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 80-3526 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., etc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specifications to exclude the pressurizer steam space sampling line valve, CAV-1, from the provisions of TS 3.0.4 until startup from the next refueling outage (Cycle 3).

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 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 amendment. Prior public notice of this amendment was not required since the amendment does not involve 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 11, 1980, (2) Amendment No. 27 to License No. DPR-72, 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 Crystal River Public Library, Crystal River, Florida. 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 23rd day of January, 1980.

For the Nuclear Regulatory Commission,

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 80-3530 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Granting Interim Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has

granted interim relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Jersey Central Power & Light Company. The relief relates to the inservice inspection (testing) program for the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The interim relief relates to the ASME Code requirements for inservice inspection and testing which have been determined to be impractical within the limitations of design, geometry, and materials of construction of components. Imposition of these requirements would result in hardships or unusual difficulties without a compensating increase in the level of quality or safety. This interim relief is granted pursuant to 10 CFR 50.55a(g)(6)(i), pending completion of a detailed review of the licensee's September 6, 1979 submittal.

The interim relief 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 letter granting interim relief. Prior public notice of this action was not required since granting of interim relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief 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 this action.

For further details with respect to this action, see (1) the request for relief dated September 6, 1979, and (2) the Commission's letter to the licensee dated January 14, 1980.

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 Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of item (2) 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 14th day of January, 1980.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 80-3527 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment revises the definitions of shutdown and refuel condition in Section 1.0 of the Technical Specifications and eliminates unnecessary operability and surveillance requirements on specified protective instrumentation while in the shutdown, refuel, and startup modes. The amendment also allows the pressure relief function of the electromatic relief values to be inoperable or bypassed to permit the ASME Code System hydrostatic pressure tests at the end of the ten-year inspection interval. Typographical errors have been corrected and Technical Specifications Sections 2.1 and 3.5 have been clarified.

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 amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated November 16, 1979, (2) Amendment No. 44 to License No. DPR-16, 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 Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. 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 January, 1980.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 80-3524 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

Jersey Central Power & Light 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-16, issued to Jersey Central Power & Light Company (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment consists of changes in the Technical Specifications that will allow the core to be unloaded and reloaded without control rod blade guides to support each rod in the inserted position and will allow single and multiple control rod and rod drive maintenance activities under specified conditions.

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 amendment. Prior public notice of this amendment was not required since the amendment does not involve 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 November 16, 1979, (2) Amendment No. 43 to License No. DPR-16, 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 Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. 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 January, 1980.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 80-3525 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., etc.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Provisional Operating License No. DPR-21, issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (the licensees), which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to allow operation at 40% of rated power when the Isolation Condenser is inoperable.

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 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 amendment. Prior public notice of this amendment was not required since the amendment does not involve 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 9, 1980, (2) Amendment No. 65 to License No. DPR-21, 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 Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. 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 17th day of January, 1980.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 80-3529 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York, which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to revise and add specifications for several instrumentation requirements as previously approved by Amendments Nos. 8, 14 and 40. In addition, errors and inconsistencies in the existing Technical Specifications have been rectified.

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 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 amendment. Prior public notice of this amendment was not required since the amendment does not involve 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 September 13, 1979, (2) Amendment No. 48 to License No. DPR-59, 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 Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. 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 23rd day of January 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 80-3528 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-129]

West Virginia University; Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated September 27, 1979, as supplemented November 30, 1979, the West Virginia University (the licensee) requested authorization to dismantle the AGN-211P Reactor (Serial No. 103) (the facility), a research reactor located in Morgantown, West Virginia, and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Component Parts, and Termination of Facility License" was published in the **Federal Register** on October 29, 1979 (44 FR 62087). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common

defense and security or to the health and safety of the public. The basis for the findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an environmental impact appraisal for this action. based on that appraisal, the Commission has determined that this action will not result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, West Virginia University is hereby authorized to dismantle the AGN–211P Reactor (Serial No. 103) covered by Facility License No. R–58, as amended, and dispose of the component parts in accordance with their dismantling plan and the Commission's rules and regulations.

After completion of the dismantling and decontamination, the submission of a report on the radiation survey to confirm that radiation levels in the facility area meet the values defined in the dismantling plan and inspection by representatives of the Commission, consideration will be given to whether a further order should be issued terminating Facility License No. R–58.

For further details with respect to this action see (1) the application for authorization to dismantle facility and dispose of component parts dated September 27, 1979, as supplemented November 30, 1979, (2) the Commission's related Safety Evaluation, (3) the Commission's Environmental Impact Appraisal, and (4) the Commission's Negative Declaration dated 01/22/80 (which is also being published in the **Federal Register**. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of January, 1980.

For the Nuclear Regulatory Commission,

William P. Gammill,

Acting Assistant Director for Operating Reactor Projects, Division of Operating Reactors.

[FR Doc. 80–3523 Filed 2–1–80; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. PRM–50–25 and PRM–50–25a]

State of Illinois and the Porter County Chapter of the Izaak Walton League of America, Inc., et al.

Notice is hereby given that the State of Illinois and the Porter County Chapter of the Izaak Walton League of America, Inc.; Concerned Citizens Against Bailly Nuclear Site; Businessmen for the Public Interest, Inc.; James E. Newman and Mildred Warner, by petitions dated December 20, 1979, have requested the Nuclear Regulatory Commission (NRC) to amend or rescind subsection 50.55(b) of the Commission's regulations in 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities."

Subsection 50.55(b) provides the procedure and basis for extending the completion date for the construction or modification of a nuclear generating plant, as outlined below. The petitioners request that § 50.55(b) be amended or rescinded to permit consideration of a broad range of issues in a proceeding to determine whether the completion date for a construction period should be extended.

Subsection 50.55(b) provides that if proposed construction or modification of a facility is not completed by the latest completion date allowed by a permit, the permit will expire. The subsection provides, however, that the NRC will extend the completion date for a reasonable time upon "good cause" for the delay being shown. As a basis for extending the date, § 50.55(b) provides that the Commission will consider ". . . developmental problems attributable to the experimental nature of the facility or fire, flood, explosion, strike, sabotage, domestic violence, enemy action, an act of the elements, and other acts beyond the control of the permit holder. . . ."

The petitioners request the Commission to

> * * * A. amend or rescind 10 CFR § 50.55(b) and B. promulgate a regulation which requires that a "good cause" proceeding concerning a requested amendment of a construction permit to extend the latest construction completion date, . . . consider whether the permittee has shown good cause for the continued construction of the plan[t] in light of all the circumstances at the time of considering the application. The Commission should determine that "good cause" should not be limited to the reasons why construction was not completed by the latest completion date in the construction permit.

The petitioners note that section 185 of the Atomic Energy Act permits construction permit extensions only upon good cause shown. They assert that by limiting consideration to reasons why construction was not completed, the statutory purposes of requiring consideration of "good cause" for the construction would be frustrated and would be a violation of section 185 of the Act.

The petitioners assert also that the application of § 50.55(b), if it is interpreted in a way which limits consideration to the reasons why construction was not completed by the latest completion date in the permit, ". . . would frustrate the statutory purpose of requiring that 'good cause' be shown for an extension." The petitioners request that a rule be established which reflects the statutory purpose of section 185 of the Atomic Energy Act, and that a regulation which is in violation of this statutory purpose should be rescinded or amended.

Simultaneously with the filing of the petition, the petitioners filed (a) a Petition for Leave to Intervene in the NRC proceeding which is considering a request of the Northern Indiana Public Service Company (NIPSCO) for an extension of the completion date for Bailly Generating Station, Nuclear 1; and (b) a Petition for Waiver of or Exception to 10 CFR 50.55(b). The petitioners request that if the relief requested by either of these petitions is granted, then the Petition for Rulemaking may be considered moot. If this relief is not granted, the petitioners request suspension of the Bailly proceeding pending disposition of their Petition for Rulemaking.

The petitions from the State of Illinois and the Porter County Chapter of the Izaak Walton League of America, et al., have been assigned Docket Numbers PRM–50–25 and PRM–50–25a, respectively.

Copies of the petitions for rulemaking, the petitions to intervene, and the petitions for waiver are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of the petitions may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments or suggestions concerning the petitions for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch by April 4, 1980.

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.

Dated at Washington, DC this 28th day of January 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-3421 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–129]

Negative Declaration for West Virginia University Research Reactor

The U.S. Nuclear Regulatory Commission (the Commission) has considered the order authorizing dismantling of facility and disposition of component parts for the West Virginia University (the licensee) AGN–211P Reactor operated under Facility License No. R–58. The order authorizes the licensee to disassemble the reactor which operated at power levels up to 75 watts (thermal), and to dispose of the component parts.

The U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, has prepared an environmental impact appraisal for this research reactor. On the basis of this appraisal, we have concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Md. this 22nd day of January 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 80-3568 Filed 2-1-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–21]

Universal Optical Co., Inc.; Petition Alleging Unreasonable and Unjustifiable Trade Practices and Policies by the Government of Switzerland

On December 12, 1979, the Chairman of the section 301 Committee received a petition from Universal Optical Company, Inc., alleging unreasonable and unjustificable trade practices and policies by the Customs Service of Switzerland which burden or restrict United States commerce. The petition was filed pursuant to section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 et seq.). The petitioner has not requested a public hearing. The text of the petition follows:

December 6, 1979

Office of the Special Representative For Trade Negotiations, *1800 G Street N.W., Room 715, Washington, D.C. 20506*

Attention: Chairman Section 301 Committee.

Dear Sir: On behalf of our client, Universal Optical Co., Inc., Providence, Rhode Island 02901, this petition is filed pursuant to section 301 of the Trade Act of 1974.

Universal Optical Co., Inc., is a leading U.S. manufacturer of sunglasses and optical frames. Through its international division, UNICO, the company markets these products throughout the world.

This petition is filed against a practice by the Government of Switzerland, specifically Swiss Customs, which burdens, restricts and discriminates against the ability of the petitioner to sell and market its product in Switzerland and which constitutes an unjustifiable and unreasonable burden restricting United States commerce in that country. Such practices are violative of the General Agreement on Tariffs and Trade (GATT) and 19 U.S.C. 2411.

The violative practice complained of concerns the destruction of samples for taking orders which our client exports to Switzerland for evaluation and return to the United States. A necessary condition precedent to the sale of sunglasses and optical frames in foreign countries is the submission of samples to potential purchasers for evaluation as to saleability and otherwise. On several occasions in the past, such samples have been virtually destroyed by Swiss Customs in an apparent attempt to determine the gold content of the frames. Attached to this petition is a series of documents covering a shipment of a series of five sample sets which were shipped to an optical wholesaler, Knecht Optik, AG, located in Stein-Am-Rhein, Switzerland. It is requested that these attachments be exempted from public disclosure since confidential price information is contained thereon. The documents are submitted to identify a particular shipment and describe the samples involved. Preliminary arrangements had been made with this company to examine some of the Universal Optical samples to determine the saleability of these styles in Switzerland. In processing through Swiss Customs, every frame, both front and temple, was filed through the gold-filled layer, and the appearance of the frames totally destroyed. These sample sets were one-of-a-kind and for commercial purposes represented no significant value to the wholesale optical firm which was Universal's potential customer. They were returned to Universal after the evaluation by Knecht Optik.

This treatment of samples on this shipment and on similar shipments effectively precludes the ability of Universal Optical Co. to obtain orders on the samples when such destruction occurs. As a result, irreparable harm is done to the petitioner and sales of inestimable value are lost.

This practice constitutes an unjustifiable, unreasonable, and discriminatory burden on U.S. commerce. It should be noted that if companies in Switzerland were attempting to market their product in the United States, such samples could be imported into the United States, without any damage and reexported without payment of duty or any other discriminatory practice under the provisions of item 864.20 of Tariff Schedules of the United States (TSUS).

We respectfully urge that your office take every action available under the law to lodge a complaint against the Government of Switzerland in order to secure reciprocal treatment of samples of United States merchandise which are shipped to that country for the purpose of taking orders. The petitioner has requested no other relief under the Trade Act of 1974 or any other provision of law.

Respectfully submitted,

Patrick D. Gill.

PDG:sc

Enclosure.

Note.—The attachments to the Petition are not included in this notice. Copies are available in the public reading file of the section 301 Committee, Office of the United States Trade Representative, Room 715, 1800 G Street, Washington, D.C.

Interested parties are invited to submit views on the petition. Submissions should conform to the requirements for section 301 petitions and comments as outlined in the Code of Federal Regulations (15 CFR 2006). Twenty copies of the submission should be sent to Chairman, Section 301 Committee, Office of the United States Trade Representative, 1800 G Street NW, Room 715, Washington, D.C. 20506. Submissions should be received by the Chairman no later than February 22, 1980.

Michael Gadbaw,

Chairman, Section 301 Committee.

[FR Doc. 80-3602 Filed 2-1-80; 8:45 am]

BILLING CODE 3190-01-M

Section 201 Case: Leather Wearing Apparel; Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, the President received, on January 24, 1980, a report from the United States International Trade Commission (USITC) on the case of Leather Wearing Apparel (Investigation No. TA–201–40). The Commission submitted a report containing an affirmative determination that coats and jackets of leather provided for in items 791.7620 and 791.7640 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury,

or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The report contained a negative determination on leather wearing apparel other than coats and jackets provided for in TSUS item 791.7660.

The Commission found and recommended that to prevent or remedy the serious injury to the domestic industry, it would be necessary to impose rates of duty, in addition to the present rates of duty, on coats and jackets of leather provided for in item 791.76, as follows—

Articles valued at not over $150 each

Year:	*Percent ad valorem*
1st	25
2d	20
3d	15

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the United States Trade Representative (USTR) chairs the interagency Trade Policy committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist in the development of recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the USTR welcomes briefs from interested parties on the above listed subjects. For further information contact: Tim Bennett, Room 725, telephone 202–395–3395. (Additional information on this case is available in USITC report TA–201–40).

Briefs should be submitted in twenty (20) copies, in conformity with 15 CFR 2003, to the Secretary, Trade Policy Staff Committee, Room 728, Office of the U.S. Trade Representative, 1800 G Street, N.W., Washington, D.C. 20506.

To be considered by the Office of the USTR, submissions should be received no later than the close of business Tuesday, February 19, 1980.

William B. Kelly, Jr.,

Associate U.S. Trade representative.

[FR Doc. 80-3659 Filed 2-1-80; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21408; 70-6406]

American Electric Power Co., Inc.; Proposal That Holding Company Act as Surety for Subsidiary

January 25, 1980.

Notice is hereby given that American Electric Power Company, Inc. ("AEP") 2 Broadway, New York, New York 10004, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 12(b) and 12(f) of the Act and rule 45 promulgated thereunder as applicable to the proposal. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposal.

AEP requests approval of a surety bond in the amount of $2,900,000 that is to be posted with the Public Service Commission of West Virginia ("State Commission") prior to april 13, 1980, by AEP as surety and Wheeling Electric Company ("Wheeling") as principal.

On November 14, 1979, Wheeling filed with the State commission new increased rates for electric service in West Virginia. By order dated December 13, 1979, the State commission suspended the increased rates until April 30, 1980, pending its investigation of such increased rates. The new increased rates can be made effective on and after April 13, 1980, subject to the posting by Wheeling of an appropriate bond to assure the making of appropriate refunds to its customers in the event the State Commission's final order in the proceeding should require refunds to be made. It is stated that the State Commission has indicated that it would permit AEP to become a surety for Wheeling in lieu of Wheeling posting the said bond. It is expected that the amount of the bond for the new increased rates will not exceed $2,900,000, which is equal to the estimated additional annual revenue that the new increased rates will provide.

The fees and expenses to be incurred in connection with the proposal are estimated at $2,500. The Public Service Commission of West Virginia has authorized the proposal. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is further given that any interested person may, not later than February 25, 1980 request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereto.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3567 Filed 2-01-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16535; SR-Amex-78-6]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1980.

On February 22, 1978, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006 filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to amend its Rules 903 and 917 to permit Amex to utilize trading rotations at the opening of trading each day and at the close of trading on the last day of trading in expiring options series.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–14550, March 10, 1978) and by publication in the **Federal Register** (43 FR 11625, March 20, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

[1] The proposed rule change also would have authorized daily closing rotations. On January 23, 1980, the Amex filed an amendment with the Commission deleting reference to daily closing rotations.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3566 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16534; SR-CBOE-77-28]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1980.

On September 11, 1978, the Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, Illinois 60604 filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to amend its Rule 5.5 to permit CBOE to utilize a closing rotation on the last day of trading in expiring options series commencing at 2:00 p.m. (C.S.T.).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–14277, December 15, 1977) and by publication in the **Federal Register** (42 FR 63976, December 12, 1977). All written statements with respect to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3563 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16540; SR-CBOE-79-10]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 29, 1980.

On September 13, 1979, the Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, Illinois 60604 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which amends Interpretation .05 of CBOE Rule 8.9 to eliminate the prohibition against transactions between participatants in a joint account.[1] On January 28, 1980, CBOE filed an amendment in the Commission which limits the effectiveness of the proposed rule change to a six month period commencing February 1, 1980 and ending on July 31, 1980.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16288, October 22, 1979) and by publication in the **Federal Register** (44 FR 62106, October 29, 1979). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3560 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[1] Joint account participants, however, still may not effect transactions with the joint account in which they are participating.

[Rel. No. 16541; SR-CBOE-79-13]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 29, 1980.

On November 28, 1979, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, filed with the Commission, pursuant to 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to permit floor brokers, board brokers and order book officials holding options orders to sell at the market to convert such orders to limit orders to sell at ⅛ where the public limit order book is displaying sell orders at a price of ⅛, without resubmitting the order to the originating member firm office..

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-16429, December 17, 1979) and by publication in the Federal Register (44 FR 76897, December 28, 1979). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3561 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11027; 812-4352]

Fidelity Money Market Trust; Filing of an Application for an Order of the Commission Amending a Previous Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Rules 2a-4 and 22c-1 Under the Act

January 23, 1980.

Notice is hereby given that Fidelity Money Market Trust ("Applicant") 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 6, 1979, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated January 3, 1979 (Investment Company Act Release No. 10540). This earlier order, pursuant to Section 6(c) of the Act, exempted Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund offering to institutional, corporate and substantial individual investors a convenient and economical means of investment in a professionally managed portfolio of money market instruments with the objective of obtaining as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant further states that its shares are sold without a sales charge.

According to the application, Applicant consists of three portfolios, differentiated in their permitted investments, namely a U.S. Government Portfolio; a Domestic Money Market Portfolio and an International U.S. Dollar-Denominated Money Market Portfolio. Applicant further states that it invests exclusively in various high-grade money market instruments, including U.S. government and federal agency obligations; U.S. dollar-denominated obligations of the largest banks, including United States banks and their branches located outside of the United States and United States branches of foreign banks; prime commercial paper; high-grade corporate obligations which are rated AAA or AA by Standard & Poor's Corporation or Aaa or Aa by Moody's Investor Services, Inc.; and certain repurchase agreements with respect to obligations which, without regard to maturity, it is authorized to invest.

According to the application, all of Applicant's assets are invested in money market instruments maturing in less than one year, and the dollar-weighted average portfolio maturity of its portfolio may not exceed 120 days. The minimum initial investment in shares of the Applicant is $250,000 with additional investments accepted in any amount. Applicant further represents that at the close of business on October 31, 1979, its aggregate net assets were approximately $140,838,655. Fidelity Management and Research Company serves as investment adviser to Applicant.

Applicant represents that pursuant to the earlier order of the Commission dated January 3, 1979, Applicant presently computes its net asset value per share to the nearest one cent on a share value of one dollar utilizing the "penny rounding" valuation method. Applicant now seeks an order of the Commission, pursuant to Section 6(c) of the Act, amending this earlier order, which amended order would exempt Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant's assets to be valued according to the amortized cost valuation method. Applicant further states that under the amortized cost valuation method, portfolio instruments are valued at their cost as of the date of acquisition assuming a constant rate of amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for with market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the

"current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Ruel 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to the application, Applicant's Trustees have determined in good faith that in light of its characteristics as described above, including the conditions to which Applicant must adhere as set forth in the earlier order of the Commission dated January 3, 1979, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and in Applicant's best interests and reflects the fair value of such securities. Applicant further represents that under the amortized cost method its shareholders would continue to have all the conveniences and advantages of a stable purchase and redemption price of $1.00 per share as described in its previous application to support the exemptive relief granted in such earlier order of the Commission.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

(2) Included within the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Appliant submits that use of the amortized cost method of valuing its portfolio securities, subject to the conditions enumerated above, will benefit its shareholders by enabling the Appliant to more effectively maintain the $1.00 per share purchase and redemption price in a manner which is substantially similar to that permitted under the Commission's earlier order. The Applicant further believes that granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes

[1] Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value. In addition, Applicant states that the quotations or estimates utilized may include *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of portfolio instruments results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 14, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notifed if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–3557 Filed 2–1–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21412; 70–6404]

New Orleans Public Service, Inc., and Middle South Utilities, Inc.; Proposed Issuance and Sale by Subsidiary of Common Stock to Holding Company and of Preferred Stock at Competitive Bidding

January 28, 1980.

Notice is hereby given that New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana 70112, an electric utility subsidiary company of Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and its public-utility subsidiary company, New Orleans Public Service Inc., have filed an application with this Commission pursuant to Sections 6(b), 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

NOPSI proposes to issue and sell up to 150,000 shares of a new series of its preferred stock, $100 par value, subject to the competitive bidding requirements of Rule 50 under the Act. The new preferred stock will be created by appropriate corporate action and, except as to designation, dividend rate, redemption prices, and the terms and amount of sinking fund requirements for the purchase or redemption of shares of the new preferred stock, will have the same characteristics as, and rank *pari passu* with, the presently outstanding preferred stock of NOPSI.

The dividend rate of the new preferred stock (which will be a multiple of 1/25th of 1 percent), the price to be paid to NOPSI (which will be not less than $100 nor more than $102.75 per share, plus accrued dividends, if any), and the amount per share to be paid by the company to the successful bidder or bidders will be determined by competitive bidding. The terms of the new preferred stock will also include provisions for a sinking fund designed to redeem at $100 per share, plus accumulated dividends, 7,500 shares on each March 1 commencing in the year 1985, with NOPSI having a non-cumulative option to redeem an additional 7,500 shares on each March 1 during the sinking fund redemption period.

NOPSI also proposes to issue and sell to Middle South, and Middle South proposes to acquire, 1,000,000 shares of NOPSI's common stock having a par value of $10 per share ("additional common stock") at a cash purchase price of $10 per share, or $10,000,000 in the aggregate. NOPSI's Charter presently provides for 6,000,000 authorized shares of common stock having a par value of $10 per share, of which 5,935,900 shares, having an aggregate par value on the company's books of $59,359,000, are issued and outstanding and owned by Middle South. Accordingly, NOPSI further proposes, by appropriate corporate action and with the consent of Middle South, to amend its Charter, concurrently with the Charter amendment establishing the new preferred stock, so as to increase from 6,000,000 to 7,000,000 the number of authorized shares of its common stock, thereby providing the company with a sufficient number of authorized but unissued shares for purposes of consummating the proposed sale to Middle South of the additional common stock.

NOPSI and Middle South believe it is preferable for sales of the additional common stock to be timed to coincide with the company's cash needs from time to time, which are primarily determined by the nature and pace of its construction program. Therefore, NOPSI and Middle South have proposed that the sales of the additional common stock be effected from time to time at any time through and including December 31, 1980, in increments to be determined by the company and Middle South. Upon the consummation of the issuance and sale by NOPSI, and the acquisition by Middle South, of all the additional common stock, NOPSI intends to credit its Common Stock Account with the amount ($10,000,000) received by it for the additional common stock, and Middle South intends to debit its Investment Account with the amount ($10,000,000) of its cash investment in the additional common stock.

NOPSI intends to apply the net proceeds derived from the issuance and sale of the new preferred stock and the additional common stock to the payment of short-term borrowings, estimated to total $11,500,000 at the time of the sale of the new preferred stock, to the financing in part of NOPSI's 1980 construction program, which provides for expenditures of approximately $30,400,000, and to other corporate purposes.

The fees and expenses paid or to be incurred in connection with the proposed issuance and sale of the new preferred stock are estimated to total $140,000, including counsel fees of $45,000, accountants' fees of $15,000, and fees of Middle South Services, Inc., at cost, of $8,500. The fee of counsel for the purchasers of the new preferred stock is estimated at $21,000 and is to be paid by the successful bidders. It is stated that no special or separable fees are anticipated by either NOPSI or Middle South in connection with the issuance and sale of the additional common stock.

It is further stated that the City of New Orleans has jurisdiction over the proposed issuance and sale of securities by NOPSI and that no other State commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 25, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for

such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3559 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

Release No. 34-16532; File No. SR-OCC-80-2]

Options Clearing Corp., Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 15, 1980, The above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would permit OCC to offset the value of certain exercised long positions carried by Clearing Members in customers' and firm non-lien accounts against the value of assigned short positions in the same accounts for the purpose of calculating the margin to be required by OCC in respect of the latter.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit OCC to offset the value of certain exercised options carried by clearing Members in their customer and firm non-lien accounts [1] with OCC against the value of assigned short positions carried in the same accounts, for the purpose of calculating the margin to be required by OCC in respect of the latter.

Under OCC's rules, long positions in put and call options carried by Clearing Members in their customers' accounts are generally treated as "segregated." OCC claims no lien on those positions, and does not take their value into account in determining the margin required in respect of short positions.

An exception to that rule occurs in cases where a Clearing Member is carrying a spread position for a customer, and the margin required from the customer on the short "leg" of the spread has been reduced to reflect the value of the long leg. In those cases, the Clearing Member may obtain a margin reduction from OCC by designating the long leg of the spread as an "unsegregated long position," which has the effect of pledging the long position to OCC as security for the Clearing Member's obligations to OCC in respect of its customers' account (OCC Rule 611). When a customers' account contains unsegregated long positions and short positions in a particular class of options, OCC subtracts the value of the unsegregated long positions from the value of the short positions (on a contract-for-contract basis), and requires margin only on the amount (if any) by which the value of the short positions exceeds that of the unsegregated long positions.

Article VI, Section 12 of OCC's By-Laws provides that a long position "shall be reduced by the number of option contracts . . . for which the Clearing Member thereafter files a notice of exercise." Consequently, when a Clearing Member exercises an option carried in an unsegregated long position, the exercise has the effect of reducing that position. If no other transactions take place in the Clearing Member's customers' account on the exercise date, the result will be an increase in the margin required by OCC, effective as of the following business day.

In most instances, the additional margin required by OCC due to the exercise of options carried in an unsegregated long position will not be material, relative to the total amount of margin required of the Clearing Member. However, in cases where a Clearing Member is carrying substantial customer spreads in "in the money" options with the same expriation, and the customers elect to "unwind" the spreads by holding them until the expiration date and then exercising the long leg, while being assigned on the short leg, the resulting increase in OCC's margin requirements can be substantial. Margin continues to be required on the assigned short position until settlement date, but is no longer reduced to reflect the value of the exercised long position, because the latter no longer qualifies as an unsegregated long position. The problem cures itself on the day after settlement date, when margin ceases to be required on the assigned short position; but in the interim, depending on the magnitude of the positions involved, a Clearing Member may experience difficulty in meeting OCC's margin requirements.

The proposed rule change would eliminate that problem by treating exercised options in customers' accounts as unsegregated long positions for margin purposes, to the extent that the customers' account contained offsetting assigned short positions in options of the same respective types and classes, with the same exercise settlement dates. OCC does not believe that the proposed change would involve any significant risk exposure to OCC, for the following reasons.

When an option carried in a customers' account is exercised, OCC automatically obtains a lien on the exercised option, whether it was previously unsegregated or not (*see* OCC Rules 1104 and 1107). If the exercising Clearing Member is suspended by OCC before the Clearing Member's correspondent clearing corporation becomes obligated to settle the exercise transaction on its behalf, the assigned Clearing Member is required, under OCC's rules, to close out the exercise transaction and to pay over the "profit" (the difference between the close-out price and the exercise price) to OCC, for deposit to the Liquidating Settlement Account of the suspended Clearing Member (OCC Rule 1107(c)). The Liquidating Settlement Account is the fund from which OCC would satisfy claims resulting from the closing out of exercise transactions where the suspended Clearing Member was the assigned Clearing Member.

Because of OCC's lien on exercised options, when a customers' account contains an exercised long position and an assigned short position of the same size (number of contracts), type (put or call), and class (underlying security), with the same exercise settlement date,

[1] Hereinafter referred to collectively as "customers' accounts."

the risk to OCC is limited to the amount, if any, by which the exercise price of the long position exceeds (if the options are calls) or is less than (if the options are puts) the exercise price of the short positions.[2]

The effect of the proposed rule change is to permit the value of the exercised long position (upon which OCC has a lien) to be set off against that of the assigned short position for margin purposes, thereby reducing the "base" upon which OCC's 130% margin requirement is computed to the amount (if any) by which the value of the short position exceeds that of the long position, which is the best measure of the net risk to OCC.

The proposed rule change serves the public interest by relieving Clearing Members of the burden of margin requirements that are not necessary for the protection of OCC.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition. The proposed rule change may enhance competition by relieving smaller Clearing Members of unnecessarily burdensome margin requirements.

On or before March 10, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all wirtten submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 26, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 25, 1980.

[FR Doc. 80-3564 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[2] Plus or minus any market movement that may occur in the interim between the closing of the two exercise transactions.

[Rel. No. 16533; SR-PSE-77-36]

Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change

January 28, 1980.

On December 12, 1977, the Pacific Stock Exchange Incorporated ("PSE") 301 Pine Street, San Francisco, California 94104 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to amend PSE Rule VI, Section 4(b), to permit PSE to utilize a closing rotation on the last day of trading in expiring options series commencing at 12 p.m. (P.S.T.).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14278, December 15, 1977) and by publication in the **Federal Register** (42 FR 63983, December 12, 1977). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3562 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16539; Jan. 28, 1980; File No. SR-PHLX-79-7, Amdt. No. 2]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

Relating to: Responses to the recommendations of the special study of the options markets as promulgated by the Securities and Exchange Commission in release No. 34-15575.

Comments Requested on or before February 26, 1980.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1980, the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Changes.

The following is a summary of the rule changes proposed by PHLX. In certain instances, proposed revisions relate to amendments previously filed by PHLX (SR-PHLX-79-7).[1] In other instances, revisions to existing rules are proposed in this filing for the first time. The text of the proposed rule changes is attached as Exhibit A to this notice. Where applicable, brackets and italics indicate changes from the rules as set forth in the previous filing.

Rule 1024. Proposed Commentary .01(d) has been amended to require customer account records to indicate whether the accounts have been approved for discretionary trading.

Rule 1032. The Rule is proposed to be amended to require customer account statements to disclose any special account charges that are not itemized and disclosed on confirmations. The proposed revision would also require disclosure on margin account statements sent to options customers of the mark-to-market and market value of each

[1] Notice of filing of the proposed rule changes was given by publication of a Commission release (Securities Exchange Act Release No. 16253, October 5, 1979) and by publication in the **Federal Register** (44 FR 59692, October 16, 1979).

security position in the account, the outstanding balance in the account and account equity. Under the proposed rule, these statements must also contain a legend indicating that further information concerning options commissions and similar execution charges will be provided on request. A new Commentary .01 is proposed which would prescribe the manner of calculating margin account equity.

Rule 1070. A new subsection (b) is proposed to be added to the rule to require members to send to a central complaint registry all options-related complaints pertaining to the member or its associated persons. It is contemplated that the registry will be maintained by either the NASD or NYSE and will also include options-related complaints received by the self-regulatory organization and the SEC.

Rule 1025. This Rule is proposed to be amended to require members to develop and implement a written program under the supervision of the Senior ROP for review of customer accounts and options orders in such accounts. Commentary .03 of the Rule is proposed to be amended to require each member firm to maintain, at the principal supervisory office having jurisdication over the office servicing the customer's account, sufficient information to permit a timely review of each customer's options account to determine that options transactions are compatible with customer objectives and the terms of the account's approval, the size and frequency of options transactions, commission activity in the account, profit or loss in the account, undue concentration in any options class or classes, and compliance with FRB Regulation T.

Rule 1049. This Rule is proposed to be amended to clarify that standards governing communications to customers apply to persons associated with members as well as to the members themselves. The amendment also clarifies that these standards apply to communications to a single individual as well as to the general public. Commentary .01 is proposed to be amended to require prescribed disclosures in advertising and sales literature and to establish specific guidelines for other written communications. Commentary .03 is proposed to be amended to provide that sales literature must state that supporting documentation will be supplied on request. Subparagraph C of Commentary .03 is proposed to be revised to permit balanced representations regarding past performance that pertain to the firm as a whole. The use of summaries or averaged past performance records is proposed to be permitted without the disclosure of detailed supporting data if certain basic information is disclosed along with an offer to provide complete documentation. Finally, subparagraph F of Commentary .03 is proposed to be revised to prohibit the use of nonstandard wordsheets for a particular options strategy where a standard worksheet has been adopted.

Circular on Front-running. This circulan presents the Exchange's enforcement policy with respect to certain practices generally referred to as "front-running of blocks". It is filed in response to the recommendation of the Special Study of the Options Markets which states in Chapter III, page 64, that "all self-regulatory organizations should issue interpretations of their rules to make it clear that front-running is inconsistent with just and equitable principles of trade." The language contained in this circular has been agreed to by a task force composed of seven self-regulatory organizations. It is PHLX's understanding that all members of the task force who are required to comply with the above recommendation will make appropriate filings with the Commission on front-running which are substantially similar to PHLX's front-running circular.

II. Self-Regulatory Organization's Statements of Purpose and Statutory Basis of Proposed Rule Change

In its filing with the Commission, PHLX included the following statements concerning the purpose and basis of the proposed rule changes and discussed comments it received on the proposed rule change. Such statements are reproduced in sections (A), (B) and (C) below.

(A) *Self-Regulatory Organization's Statement of Purpose of and Statutory Basis for Proposed Rule Changes.*

This amendment to the original filing (SR–PHLX–79–7) is for the purpose of proposing rules amendments in response to certain recommendations of the Special Study of the Options Markets that were not addressed in the original filing, as well as proposing certain editorial and minor substantive amendments to previously filed proposals.

The statutory basis for all of these proposed rule changes remains as stated in the original filing. The purpose of each of the substantive proposed rule changes included in this filing is as follows:

Rule 1024. The minimum information that must be reflected in customers' account records has been expanded to include whether the account is approved for discretionary orders.

Rule 1032. In response to Options Study Recommendation I.A.2.a., we propose to revise Rule 1032 to expand the information which member organizations must disclose in the statement sent to customers having a general (margin) account. By limiting this requirement to margin accounts, the information will be furnished to most options customers without imposing undue burdens on member firms. The proposal will require that statements of margin accounts sent to such customers reflect the mark-to-the-market price and market value for all security positions in the account, the total of market value of all positions in the account, the debit (or credit) balance, and account equity. We have defined general (margin) account equity in proposed Commentary .01 to Rule 1032 as the difference between the total of long security values, including any credit balance, and the total of short security values, including any debit balance.

Finally, we propose to require a legend on account statements to the effect that information concerning commissions and other charges has been included in confirmations, and will be furnished to customers upon request.

Rule 1070. In response to Options Study Recommendation I.A.2.g. for the self-regulatory organizations to establish and maintain a central customer complaint file showing all complaints received by each SRO and the disposition thereof, we propose adding a new subsection (b) to Rule 1070 that would require each member firm to forward a copy of every options-related complaint pertaining to the member firm and its associated persons, and a report of any action taken in response thereto, to a designated joint self-regulatory organization complaint registry. The rule describes the complaint registry as containing all such complaints as well as options-related complaints received by the Exchange and other self-regulatory organizations and the SEC.

Rule 1025. Options Study recommendation I.A.2.e. calls for the adoption of rules requiring that the headquarters office of every options broker-dealer be in a position to timely review each customer's account to determine the extent of commissions and realized and unrealized losses relative to account equity, the existence of unusual credit extensions and unusual account risks or trading patterns.

In response, Rule 1025 is proposed to be revised to impose in explicit terms the obligation for firms to develop and

implement headquarters account review procedures, and to impose recordkeeping requirements to facilitate such review. Recognizing the decentralized supervisory structure which many large securities firms have adopted, the proposed amendment is keyed to review by the "principal supervisory office having jurisdiction over the office supervising the customer's account."

Rule 1049. The proposed rule amendments as previously filed regarding customer communications have been modified in certain respects. First, the general rule regarding customer communications in paragraph (a) of the Rule has been clarified to cover communications by persons associated with member organizations and to apply to communications with an individual customer or member of the public. Also, the applicability of the various standards of the rule to different categories of communications (advertising, sales literature and other communications) has been further clarified. The circumstances and conditions under which past performance information may be used have also been clarified to emphasize that representations concerning past performance must be made in a balanced manner and must pertain to the member organization as a whole. Representations concerning the past performance of a particular registered representative are, thus, prohibited. We have also added specific requirements concerning the furnishing of supporting detail whenever statements involving past performance are made. Finally, a new requirement has been added to Commentary .02 to Rule 1049 barring the use of non-standard options worksheets where a member organization has adopted a standard form of worksheet for a particular options strategy.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PHLX does not believe that the rule changes proposed in this Amendment No. 2 to File No. SR-PHLX-79-7 will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments Received from Members, Participants, or Others on Proposed Rule Changes

Editorial revisions to those proposals reflected herein were not submitted to members for comments. Comments on proposed rule changes presented herein for the first time were solicited in response to a preliminary draft of the proposals that was mailed jointly to member firms by members of the joint task force. A large number of detailed comments were received in response to this mailing. The following is a summary of those comments that are relevant to the proposed rule changes in their present form.

Rule 1032. The proposals involving changes in customer account statements generated by far the greatest volume of member comment. However, most of the comments were directed toward the items which are not included in the proposal as filed (*e.g.*, disclosure regarding total commissions and aggregate account profit or loss). Most commentators opposed including information on the account statement that is already stated on confirmations. Members also criticized the mark-to-the-market requirement on the grounds that current prices may be unavailable in certain instances and, in any event, will be out of date by the time the statement is received. Small- and medium-sized firms criticized the cost involved with putting the proposed account statement requirements into effect.

Rule 1070. The requirement of a joint SRO complaint registry received widespread support from commentators: Several members commented that the standards governing the type of complaints which must be forwarded to the registry should be stated so that no doubt can exist. One commentator also indicated that members should be allowed access to registry complaint files.

Rule 1025. The requirement that each principal supervisory office be in a position to make certain determinations with respect to options customer's accounts (Commentary .03) was generally supported in members' comments. Several commentators indicated that the proposed Commentary is consistent with existing review programs. However, certain commentators criticized the cost of the proposal and sought more detailed standards for the inquiries required by the provision.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

On or before March 10, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. Section 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C.

Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number reference in the caption above and should be submitted on or before February 26, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority.

George A. Fitzsimmons,

Secretary.

January 28, 1980.

Exhibit A

(Where applicable, bracketing and italics identify changes from the rules as set forth in the original filing.)

Conduct of Accounts for Options Trading

Rule 1024

* * * * *

. . . *Commentary*

.01 In fulfilling its obligations pursuant to paragraph (b)(ii) of this rule with respect to options customers that are natural persons, a member organization shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

* * * * *

In addition, the customer's account records shall contain the following information, if applicable:

* * * * *

d. Nature and[T] types of transactions for which account is approved (e.g., buying, covered writing, uncovered writing, spreading, *discretionary transactions*)

Statements of Accounts

Rule 1032

Statements of accounts required by Rule 752 shall be sent not less frequently than once every month to each customer in whose account there has been an entry during the preceding month with respect to an option

contract and at least quarterly to all accounts having a money or a security position during the preceding quarter. [The statement shall bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.] *Statements of accounts to customers shall show security and money positions, entries, interest charges and any special charges that have been assessed against such account during the period covered by the statement; provided, however, that such charges need not be specifically delineated on the statement if they are otherwise accounted for on the statement and have been itemized on transaction confirmations. With respect to options customers having a general (margin) account, such statement shall also provide the mark-to-market price and market value of each option position and other security position in the general (margin) account, the total market value of all positions in the account, the outstanding debit or credit balance in the account and the general (margin) account equity. The statement shall bear a legend stating that further information with respect to commissions and other charges related to the execution of listed option transactions has been included in confirmations of such transactions previously furnished to the customer, and that such information will be made available to the customer promptly upon request. The statement shall also bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.*

. . . Commentary

.01 For purposes of the foregoing rule, general (margin) account equity shall be computed by subtracting the total of the "short" security values and any debit balance from the total of the "long" security values and any credit balance.

Customer Complaints

Rule 1070

(a) Every member organization conducting customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. The central file shall be located at the principal place of business of the member organizaton or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) identification of complainant, (ii) date complaint was received, (iii) identification of Registered Representative servicing the account, (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the separate, central file is located not later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

(b) In addition to maintaintng a central file of options-related complaints as required by (a) above, every member organization conducting a customer business shall forward a copy of every options-related complaint pertaining to the member organization or its associated persons, within 30 days after receipt, to the designated custodian of the joint self-regulatory organization options complaint registry, and shall also promtply forward advice of any action taken by the member organization in response to such complaints. The options complaint registry is maintained by the ————. Copies of complaints should be forwarded to the ———— at ————. The options complaint registry is a data bank consisting of a record of options-related complaints received by members of the Exchange and other SRO's, and of such complaints received directly by the SRO's and the SEC. Information in the options complaint registry will be made available only for bona fide regulatory purposes to national securities exchanges or associations, the SEC or other governmental regulatory agencies.

Supervision of Accounts

Rule 1025

(a) Duty to Supervise; Senior Registered Option Principal.

* * * * *

. . . Commentary

.01 No change.

.02 No change.

.03 Each member organization shall maintain, at the principal supervisory office having jurisdiction over the office servicing the customer's account, information to permit review of each customer's options account, on a timely basis to determine (i) the compatability of options transactions with investment objectives and with the types of transactions for which the account was approved; (ii) the size and frequency of options transactions; (iii) commission activity in the account; (iv) profit or loss in the account; (v) undue concentration in any options class or classes, and (vi) compliance with the provisions of Regulation T of the Federal Reserve Board.

Communications to Customers

Rule 1049

(a) *General Rule.* No member or member organization *or person associated with a member* [, and no partner or employee thereof,] shall utilize any advertisement, sales literature or other communictions to *any* customer[s] *or member* of the public concerning options which:

* * * * *

. . . *Commentary*

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any *advertisment or sales literature* [communication] which discusses the uses or advantages of options. *All advertisements and sales literature discussing the use of options should include a warning to the effect that options are not for everyone.* In the preparation of *written* communications respecting options, the following guidelines should be observed:

* * * * *

B. It should not be suggested that options are suitable for all investors. [All communications discussing the use of options should include a warning to the effect that options are not for everyone.]

* * * * *

.03 Written communications (other than advertisements) pertaining to options shall conform to the following standards:

A. [Such Communications] *Sales literature* shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparisons, recommendations, statistics or other technical data, will be supplied upon request.

* * * * *

C. Such communications may feature records and statistics which portray the performance of past recommendations or of actual transactions *of the member organization (but not of an individual Registered Representative)*, provided that:

(i) any *such portrayal is done in a balanced manner, and consists of* records or statistics *that are* [must be] confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(ii) such communications include [or offer to provide] the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier; *provided that if the communications are limited to summarized or averaged records or statistics, in lieu of the complete record there may be included the number of items recommended or transacted, the number that advanced and the number that declined, together with an offer to provide the complete record upon request;*

* * * * *

[(iv) in the event such records or statistics are summarized or averaged, such communications include the number of items recommended or transacted, the number that advanced and the number that declined;]

[Renumber (v)–(vii) as (iv)–(vi)]

* * * * *

F. If a member organization has adopted a standard form of worksheet for a particular options strategy, non-standard worksheets for that strategy may not be used.

[Renumber paragraph F as paragraph G.]

Front-Running of Blocks—Circular

This information circular presents the Exchange's enforcement policy with respect to certain practices generally referred to as "front-running of blocks". Because a block transaction in an underlying security may have an impact on the market for that security or the options covering that security (or vice versa), the Exchange would be concerned if its members were to engage in the practice of trading in options or in

underlying securities when they are in possession of material non-public information concerning block transactions in these securities. In keeping with its responsibility to assure the fairness of its market, the Exchange wishes to emphasize that this kind of activity on the part of market professionals is conduct inconsistent with just and equitable principles of trade and will be dealt with in disciplinary proceedings under the By-Laws and Rules of the Exchange.

Although it is not possible to provide an all-inclusive definition of front-running in all of its forms, the Exchange believes that it is important to provide standards describing the kind of conduct that will not be permitted, both in order to provide guidance for members and to avoid interfering with entirely legitimate transactions that do not involve front-running. For this purpose, the Exchange has prepared this circular discussing the kind of conduct involving the front-running of blocks that would be considered to be improper. It must be recognized that the following discussion of prohibited conduct is not exclusive, and that conduct not specifically described in this circular may nonetheless constitute front-running. Although the circular concentrates on proprietary trading of members, front-running violations may also occur in certain agency situations, such as where a member passes on non-public information concerning block transactions to a customer who then trades on the basis of the information.

The Exchange considers it to be conduct inconsistent with just and equitable principles of trade for a member or person associated with a member for an account in which such member or person has an interest, or for an account with respect to which such member or person exercises investment discretion, to cause to be executed

(1) an order to buy or sell an option when such member or person causing such order to be executed has knowledge of a block transaction in the underlying security, or

(2) an order to buy or sell an underlying security when such member or person causing such order to be executed has knowledge of a block transaction in an option covering that security,

prior to the time information concerning the block transaction has been made publicly available. Front-running may be based upon knowledge of less than all of the terms of the transaction, so long as there is knowledge that all of the material terms of the transaction have been or will imminently be agreed upon. Notwithstanding the foregoing, if a member firm receives at or about the same time a customer's order of block size relating to both an option and the underlying security, the member may position the other side of one or both components of the order, subject to applicable exchange rules governing crosses. However, the member firm would not be able to cover any resulting proprietary position by entering an offsetting order until information concerning all block transactions involved has been made publicly available.

The application of this circular is limited to transactions that are required to be reported on the last sale reporting systems administered by CTA or OPRA, and information as to a block transaction shall be considered to be publicly available when it has been disseminated via the tape or high speed communication line of one of those systems. Public outcry on the Exchange Floor shall not be deemed to make such information publicly available except in unusual circumstances with the advance approval of two Floor Officials.

A transaction involving 10,000 shares or more of an underlying security or options covering such number of shares shall be conclusively deemed to be a block transaction, although transactions of less than 10,000 shares may also be block transactions in appropriate cases. A block transaction that has been agreed upon does not lose its identity as such by arranging partial execution of the transaction in portions which themselves are not of block size. In this situation, the requirement that information concerning the transaction be made publicly available will not be satisfied until the entire block transaction has been completed and publicly reported.

Effectiveness Timetable

Rule and Number of Days Following Commission Approval [1]

1024(b)(ii) [2]—30 days
1024(b)(iii) [2]—30 days for initial verification; 60 days for subsequent verification
1032—180 days
1026—30 days
1070(a)—60 days
1025(a)—30 days
1025(b)—90 days
1025(c)—90 days
1025(.03)—90 days
619—30 days
610—Immediately
1049(a)—Immediately
1049(b)—90 days; until then under present 1049(a)
1049(c), (d) and (e)—Immediately
1070(b)—60 days following effectiveness of Commission rule authorizing central complaint registry
1043(a)—60 days
1043(b)—Immediately
1043(c)—60 days
1022(a) and (b)—60 days
"Front-running" circular under by Law 18–7—Immediately
1025(d)—90 days
1027(a)—60 days
1027(b)—90 days

[1] The Exchange may grant members additional time to comply with certain of these rules on a case-by-case basis, but no extension of time will be granted for more than 6 months after the effectiveness of the rule in question as stated in this table. In granting or denying requests for extensions of time the Exchange will act jointly with other self-regulatory organizations that have comparable rules insofar as the requesting parties are members of the Exchange and such other SRO's.

[2] Within 12 months following their effectiveness as stated in this table. Rules 1024(b)(ii) and (b)(iii) must be complied with in respect of customers' accounts that were approved for options transactions prior to the effectiveness of these rules in order for those accounts to remain so approved.

[FR Doc. 80-3558 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16537; SR-Phlx-78-6]

Philadelphia Stock Exchange, Inc; Order Apporving Proposed Rule Change

On May 3, 1978, the Philadelphia Stock Exchange, Inc. ("Phlx") 17th and Stock Exchange Place Philadelphia, Pennsylvania 19103, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to amend its Rules 1047 and 1012 to permit Phlx to utilize trading rotations in options at the opening of each business day and at the close of trading on the last day of trading in expiring options commencing at 3:00 p.m. Eastern time.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–14789, May 22, 1978, and by publication in the **Federal Register** (43 FR 23067, May 30, 1978)). On September 27, 1978 the Phlx filed an amendment with the Commission to delete that portion of SR–Phlx–78–6 which would have authorized daily closing rotations. All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3565 Filed 2-1-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0387]

Finevalor Capital Corp. Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Finevalor Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the rules and regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $1,020,000.

The Applicant will have its place of business at 745 Fifth Avenue, New York, New York 10022, and it intends to conduct operations primarily in the State of New York.

The officers, directors and stockholders of the Applicant will be:

Juan Zavala, president & director, 1020 Park Avenue, New York, New York 10028, 100%
Dr. Jacob Mayer, vice president & director, 12-73 35th Avenue, Jackson Heights, NY 11372
Alfred Davis, secretary/treasurer & director, 13-12 35th Avenue, Jackson Heights, NY 11372.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person, may not later than February 19, 1980 submit written comments on the Applicant to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies).

Dated: January 29, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-3591 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

Hasidic Jewish Americans; Determination of Social Disadvantage

Pursuant to the provisions of section 8(a) of the Small Business Act, 15 U.S.C. 637(a) as amended by Pub. L. 95-507, and 13 CFR 124.1-1(c)(3)(iii)(A), notice is hereby given that the Small Business Administration (SBA) has received a request that it consider Hasidic Jewish Americans (hereinafter group) to be a minority group which has members who are socially disadvantaged because of their identification as members of the group, for the purpose of eligibility for SBA's section 8(a) program.

SBA shall receive comments and information from the public, on or before March 5, 1980, which tends to show:

(1) If the group has suffered the effects of discriminatory practices or similar invidious circumstances over which its members have no control,

(2) If the group has generally suffered from prejudice or bias,

(3) If such conditions have resulted in economic deprivation for the group of the type of which Congress has found exists for the groups named in Pub. L. 95-507, and

(4) If such conditions have produced impediments in the business world for members of the group over which they have no control and which are not common to all small business people.

All such comments and information should be submitted to: Mr. William Clement, Associate Administrator, Minority Small Business and Capital Ownership Development, U.S. Small Business Administration, 1441 L Street, NW. Washington, D.C. 20416.

Subsequent to the close of the receipt of information on this matter, the SBA will publish its decision on the group's request in the form of a Notice in the **Federal Register**, pursuant to the provisions of 13 CFR 124.1-1(c)(3)(iii)(D).

Dated: January 25, 1980.

William A. Clement,

Associate Administrator, Minority Small Business and Capital Ownership Development, Small Business Administration.

[FR Doc. 80-3592 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1743; Amdt. No. 1]

New Mexico; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 75759) is amended by adding Luna County and adjacent counties within the State of New Nexico, as a result of inclement weather August 1-September 30, 1979, and severe frost October 23-25, 1979.

The termination date for filing applications remains the same, i.e., for physical damage until the close of business on June 13, 1980, and for economic injury until the close of business on September 15, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 25, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-3590 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1744; Amdt. 1]

Texas; Declaration of Disaster Loan Area

The above-numbered Declaration (see 45 FR 1465) is amended to include the following four counties, Briscoe, Foard, Garza and LaSalle and adjacent counties, within the State of Texas, as a result of natural disasters as indicated:

County, Natural Disaster(s) and Date(s)

Briscoe, Excessive wind and hail—9/1-10/29/79.
Foard, Drought—9/1-12/3/79.
Garza, Extreme drought and grasshopper infestation—7/1-11/9/79.
LaSalle, Drought—7/1/79-1/4/80.

The closing dates for accepting applications remains the same, i.e. until June 26, 1980, for physical damage, and for economic injury until September 26, 1980.

Dated: January 24, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-3589 Filed 2-1-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 141—FM Broadcast Interference Related to Airborne ILS, VOR, and VHF Communications Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 141 on FM Broadcast Interference Related to Airborne ILS, VOR and VHF Communications Equipment to be held on February 26–27, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Third Meeting held November 7–8, 1979; (3) Reports on Activities of Working Groups; (4) Review of Committee Draft Report; (5) Assignment of Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 28, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80–3183 Filed 2–1–80; 8:45 am]

BILLING CODE 4910–13–M

Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee and its Technical Groups; Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the SAFER Advisory Committee, the SAFER Technical Group on Compartment Interior Materials, and the SAFER Technical Group on Post-Crash Fire Hazard Reduction to be held in the auditorium of the Aerospace Corporation main building at 2350 E. El Segundo Boulevard, El Segundo, California 90009. At this meeting, in addition to previously assigned status reports, the Federal Aviation Administration will respond to the recommendations which have been developed by the SAFER Committee. The schedule for this meeting will be as follows:

Tuesday, March 4, 1980

- 7:45 to 8:30—Registration.
- 8:30 to 11:15—Status reports on the recent work of the Advisory Group for Aerospace Research and Development (AGARD); aviation accident data statistics; personal protection breathing devices (smoke hoods); and the national data bank concept.
- 12:30 to 5:00—Inspection of aircraft manufacturing facility (aspects of manufacturing and installation pertinent to SAFER Committee tasks).

Wednesday, March 5, 1980

- 8:30 to 5:00—FAA responses to SAFER recommendations.

Thursday, March 6, 1980

- 8:30 to 11:15—Additional SAFER comments/recommendations.
- 12:30 to 5:00—Structure of final SAFER report.

The security requirements of the Aerospace Corporation facility require that each person must present personal identification prior to admittance to this meeting.

Attendance is opened to the interested public but is limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present an oral statement should notify, not later than one day before the meeting, Ed Wood, ASF–300, Special Programs Division, Office of Aviation Safety, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: 202–426–8198. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on January 30, 1980.

John R. Harrison,

Director of Aviation Safety.

[FR Doc. 80–3611 Filed 2–1–80; 8:45 am]

BILLING CODE 4910–13–M

VETERANS ADMINISTRATION

New Laundry, VAMC, Reno, Nev.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a New Laundry facility at the Veterans Administration Medical Center (VAMC), Reno, Nevada.

The proposed project will provide additional space and facilities for the processing of a projected laundry workload of 1 million pounds per year. The facility will consist of new construction (one story) comprising 8,400 net square feet. Estimated construction cost is approximately $2.4 million.

Development of the proposed project will have impacts on the environment as it affects visual site qualities and existing noise levels during construction.

Mitigation of the proposed action's impacts on the environment include: implementation of erosion controls; onsite noise abatement measures and dust palliative measures. Use of vegetative screening and general landscape planting will be instituted in the project design.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 25, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 80–3569 Filed 2–1–80; 8:45 am]

BILLING CODE 8320–01–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 Report 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, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

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. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments on 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. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should 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 Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Revisions

Food and Nutrition Service
Child Care Food Program Regulations and Related Forms
Part 226
On occasion
State agencies, also instits. sponsoring orgs., 138,438 responses; 95,096 hours
Charles A. Ellett, 395-5080
Food and Nutrition Service
Application For Participation and Site Information (SFSPFC and SNP)
FNS-81 & 81-1
Annually
Service Institutions, 11,880 responses; 12,320 hours
Charles A. Ellett, 395-5080
Food and Nutrition Service
Summer Food Service Program for Children
Part 225, FNS-80 & 418
Annually
FNS regional offices, State agencies or sponsors, 11,844 responses; 23,586 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

New Forms

Departmental and Other Civilian Physician Survey
Single time
Civilian physicians, 6,105 responses; 3,053 hours
Kenneth B. Allen, 395-3785

Extensions

Department of the Air Force
Report of Government Vehicles, Equipment, and Material in the Hands of Contractors
AFTO 439, AFLC 11, 392, 814, & 815
Other (See SF-83)
Air Force Depot Maintenance, 928,080 responses; 213,673 hours
John A. Caron, 395-3785

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-9770

Revisions

Foreign Crude Oil Cost Report
EIA-67
Monthly
Crude oil dealers, 192 responses; 1,536 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-6511

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Special Supplement of Physician Staff
Single time
State and county mental hospitals, 290 responses; 435 hours
Richard Eisinger, 395-3214

Department of Labor

(Agency Clearance Officer—Philip M. Oliver—523-6341)

Extensions

Employment and training administration
CETA Grant Application and Reporting Requirements
ETA 2202, 5134, etc.
Other (see SF-83)
State and local agencies, 3,897,331 responses; 3,104,317 hours
Arnold Strasser, 395-5080

Action

(Agency Clearance Officer—W. D. Baldridge—254-7845)

New Forms

Older American Volunteer Project Directors Salary Survey
Single time
All older American vol. prog. local proj. dir., 942 responses; 188 hours
Arnold Strasser, 395-5080

Revisions

Senior Companion Program Demonstration Project Impact Evaluation questionnaires

Annually
Participants in SCP demos & those on waiting list to part., 811 responses; 584 hours
Arnold Strasser, 395–5080

Community Services Administration

(Agency Clearance Officer—Jack Stoehr—254–5300)

Revisions

Project Progress Review Report
CSA 440
Quarterly
Grantees, 2,000 responses; 70,000 hours
Arnold Strasser, 395–5080

Environmental Protection Agency

(Agency Clearance Officer—John J. Stanton—245–3064)

New Forms

Reform Initiatives Report Comment Form
Single time
All users of reform initiatives report, 75,000 responses; 1,875 hours
Edward H. Clarke, 395–5867

Executive Office of the President (Other)

(Agency Clearance Officer—Roy A. Nierenberg—456–6286)

Revisions

Council on Wage and Price Stability
Report on prices, sales, and profits for second program year
PM–1 (second program year)
Quarterly
Largest non-financial corporations, 12,000 responses; 120,000 hours
Warren Topelius, 395–3211

Federal Reserve System

(Agency Clearance Officer—Carolyn B. Doying—452–3512)

Revisions

Daily Report of Dealer Positions, Transactions, and Financing
FR 2004
Other (SF 83)
Primary dealers in U.S. Government securities, 8,750 responses; 10,938 hours
Warren Topelius, 395–3211

National Science Foundation

(Agency Clearance Officer—Herman Fleming—634–4070)

Revisions

Survey of Industrial Research and Development 1979
RD–1, MA–121
Annually
Firms in indus. which conduct research & development, 1,500 responses; 27,000 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Railroad Retirement Board

(Agency Clearance Officer—Pauline Lohens—312–751–4693)

Reinstatements

Statement of Marital Relationship: Statement Regarding Marriage
G–124 (10–53) & G–124A (10–53)
On occasion
Applicants: Witness, 800 responses; 325 hours
Barbara F. Young, 395–6132

Louis Kincannon,

Acting Assistant Director for Regulatory and Information Policy.

[FR Doc. 80–3683 Filed 2–1–80; 8:45 am]
BILLING CODE 3110–01–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 24
Monday, February 4, 1980

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

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 1:30 p.m., January 30, 1980.

PLACE: Room 200-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Closed.

MATTER CONSIDERED: Docket CZ 317 restabilization of grain market.

SUPPLEMENTAL INFORMATION: The General Counsel certified this meeting may be closed. All members of the Board present as follows voted to close this meeting:

1. Bob Bergland, Secretary of Agriculture, Chairman.
2. Jim Williams, Member.
3. Dale E. Hathaway, Member.
4. M. Rupert Cutler, Member.
5. P. R. Smith, Member.
6. Howard W. Hjort, Member.
7. Ray Fitzgerald, Member.

CONTACT PERSON FOR MORE INFORMATION: Bill Cherry, Secretary, Commodity Credit Corporation, room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone (202) 447-7583.

[S-207-80 Filed 1-31-80; 9:47 am]

BILLING CODE 3410-05-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, February 5, 1980.

PLACE: Commission conference room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Proposed Semiannual Regulatory Agenda.
2. Proposed Modification to a Contract.
3. Procurement of Library Materials.
4. Report on Commission Operations by the Executive Director.

CLOSED: Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice issued January 29, 1980.

[S-214-80 Filed 1-31-80; 2:24 pm]

BILLING CODE 6570-06-M

3

January 30, 1980.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., February 6, 1980.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

Power Agenda—438th Meeting, Feb. 6, 1980, Regular Meeting (10 a.m.)

CAP-1. Projec No. 2004, Holyoke Water Power Co.
CAP-2. Docket Nos. E-8308 and E-7206, Detroit Edison Co.
CAP-3. Docket No. ER78-19 et al., Florida Power & Light Co.
CAP-4. Docket No. ER79-85, Sierra Pacific Power Co.
CAP-5. Docket No. ER78-19 et al. (phase II), Florida Power & Light Co.
CAP-6. Docket No. ER78-389, Indiana & Michigan Electric Co.

Miscellaneous Agenda—438th Meeting, February 6, 1980, Regular Meeting

CAM-1. U.S. Geological Survey—Alternative filing requirments for infill wells drilled in existing proration units in the Blanco Mesaverde and Bsin Dakota Pools in San Juan and Rio Arriba Counties, N.M.
CAM-2. Docket No. GP-80-3, State of Ohio, William N. Tipka, G. Sauser #1A well, JD 79-018447.
CAM-3. Docket No. RA79-9, H & K Oil Co., Inc.

Gas Agenda—438th Meeting, February 6, 1980, Regular Meeting

CAG-1. Docket No. TA80-1-22 (PGA80-1a, IPR80-1a), Consolidated Gas Supply Corp.
CAG-2. Docket No. TA80-1-31 (PGA80-1a, IPR80-1a), Arkansas Louisiana Gas Co.
CAG-3. Docket No. PR80-67, Consolidated Gas Supply Corp.
CAG-4. Docket No. PR78-62, Panhandle Eastern Pipe Line Co.
CAG-5. Docket Nos. RP78-85 and RP78-86, *Village of Pawnee, et al.* v. *Panhandle Eastern Pipe Line Co.* and *Kaskaskia Gas Co., et al.* v. *Trunkline Gas Co.*
CAG-6. Docket No. RP72-6, El Paso Natural Gas Co.
CAG-7. Docket No. TC79-6, Transcontinental Gas Pipe Line Corp.
CAG-8. Docket Nos. G-11828 et al., Marathon Oil Co.; Docket No. CI79-103, Exxon Corp.; Docket No. CI79-180, Sabine Production Co.; Docket Nos. CS67-25, et al., Parker & Parsley, Inc., et al., (Parker & Parsley, et al.); Docket No. CI78-1203, Sun Oil Co.; Docket No.CI78-1211, Forest Oil Corp.; Docket No.CI79-199, Exxon Corp.; Docket Nos. CI64-175 et al., Amoco Production Co. et al.; Docket No.CI77-288, Pennzoil Producing Co.; Docket No. CI77-711, Transco Exploration Co.; Docket No. CI78-962, Transco Exploration Co.; Docket No. CI78-1190, Transco Exploration Co.; Docket No. CI79-20, Transco Exploration Co.; Docket No. CI79-29, Transco Exploration Co.; Docket No. CI79-38, Florida Gas Exploration Co.; Docket No. CI80-58, Transco Exporation Co.; Docket Nos. CI76-496, et al., Pennzoil Producing Co., (Successor to Pennzoil Louisiana & Texas Offshore Inc.); Docket Nos. CI76-496 and CI76-564, Pennzoil Producing Co.; Docket No. CI76-634, Pennzoil Producing Co.; Docket No. CI76-635, Pennzoil Producing Co.; Docket Nos. CI64-175 et al., Amoco Production Co.; Docket No. CI78-1246, The Louisiana Land & Exploration Co.; Docket No. CI80-68, Getty Oil Co.; Docket No. CI79-94, Mesa Petroleum Co.; Docket No. CI79-65, Mobil Oil Corp.; and Docket No. CI79-179, Sabine Production Co.
CAG-9. Docket No. RI77-231, South States Oil & Gas Co.

CAG–10. Docket No. G–17136, Trice Production Co.; Docket No. G–18516, Oleum Inc., and Docket No. RI60–234, Trice Production Co.
CAG–11. Docket No. CP80–94, Columbia Gas Transmission Corp.
CAG–12. Docket No. CP80–20, Columbia Gas Transmission Corp.
CAG–13. Docket No. CP79–476, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–14. Docket No. CP80–53, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and Trunkline Gas Co.; Docket No. CP80–79, Trunkline Gas Co.
CAG–15. Docket No. CP 79–352, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–16. Docket No. CP79–407, Transcontinental Gas Pipe Line Corp.; Docket No. CP77–566, Michigan Wisconsin Pipe Line Co.
CAG–17. Docket No. CP78–518, Trunkline Gas Co. and Transcontinental Gas Pipe Line Corp.
CAG–18. Docket No. CP77–481, El Paso Natural Gas Co.
CAG–19. Docket No. CP80–120, United gas Pipeline Co.

Power Agenda—438th Meeting, February 6, 1980, Regular Meeting

I. License Project Matters

P–1. Project No. 2786, Central Vermont Public Service Corp.; Project No. 2819, Vermont Electric Cooperative, Inc.; Project No. 2838, West River Basin Energy Committee, Inc.; and Project No. 2872, Town of Springfield, Vt.

II. Electric Rate Matters

ER–1. Docket No. ER80–71, Central Illinois Public Service Co.
ER–2. Docket No. ER80–140, Public Service Co. of New Hampshire.
ER–3. Docket No. ER76–739, Public Service Co. of Indiana, Inc.
ER–4. Docket No. E–7704, *The Electric & Water Plant Board of the City of Frankfort, Ky.* v. *Kentucky Utilities Co.*; Docket No. E–7669, Public Service Co. of Indiana; Docket No. E–7937, Indianapolis Power & Light Co.; and Docket No. E–8053, Kentucky Utilities Co.
ER–5. Docket Nos. ER77–488 and ER78–520 (phase II), El Paso Electric Co.

Miscellaneous Agenda—438th Meeting, February 6, 1980, Regular Meeting

M–1. Docket No. RM79–64, Revision of § 35.13: Filing of changes in rate schedules.
M–2. Docket No. RM80–9, Reporting requirements under section 211 of the Public Utility Regulatory Policies Act of 1978.
M–3. Reserved.
M–4. Reserved.
M–5. Docket No. RM79–76, high-cost natural gas produced from tight formations.
M–6. Docket No. RM78–79, final rule defining the term new well under NGPA.
M–7. (A) Docket No. RM80– , rule required by section 206(a) defining small boiler fuel users; (B) Docket No. RM80– , exemptions from the rule required by section 206(a) defining small boiler fuel users.
M–8. (A) Docket No. RM80– , form to report purchases under sections 104 and 106(a) of the NGPA; (B) Docket No. RM80– , form to report sales under section 102, 103, 107, and 108 of the NGPA.
M–9. Docket No. RA80–5, San Ann Service, Inc.

Gas Agenda—438th Meeting, February 6, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket No. RP80–66, Grand Bay Co.
RP–2. Docket Nos. RP79–23 and RP79–24, Distribas of Massachusetts Corp. and Distrigas Corp.
RP–3. Docket No. RP79–81, Texas Eastern Transmission Corp.

II. Pipeline Certificate Matters

CP–1. Docket No. CP79–289, Michigan Wisconsin Pipe Line Co.
CP–2. Docket No. CP79–402, Lone Star Gas Co., a Division of Ensearch Corp.

[S–205–80 Filed 1–30–80; 4:28 pm]
BILLING CODE 6450–01–M

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR, 6228, January 25, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:30 a.m., Wednesday, January 30, 1980—following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting: Proposed publication schedule for the redefined monetary aggregates and related data series.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 30, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–210–80 Filed 1–31–80; 11:17 am]
BILLING CODE 6210–01–M

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, February 5, 1980.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Advance Notice of Proposed Rulemaking in Blue Shield Association et al., File No. 761–0036.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information (202) 523–3830; Recorded message (202) 523–3806.

[S–215–80 Filed 1–31–80; 3:56 am]
BILLING CODE 6750–01–M

6

[Meeting Notice 1–80]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wednesday, February 6, 1980 at 10:30 a.m.—Canceled.
Wednesday, February 13, 1980 at 10:30 a.m.—Canceled.
Wednesday, February 20, 1980 at 10:30 a.m.—Canceled.
Wednesday, February 27, 1980 at 10:30 a.m.—Canceled.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Telephone (202) 653–6155.

Dated at Washington, D.C. on January 28, 1980.

Francis T. Masterson,

Executive Director.

[S–212–80 Filed 1–31–80; 11:58 am]
BILLING CODE 6770–01–M

7

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 10:30 a.m. to 12 noon.

DATE: February 9, 1980.

PLACE: Hyatt Regency Phoenix, Phoenix, Ariz.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive session (closed meeting, sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Alphonse F. Trezza,

Executive Director, NCLIS (202) 653–6252.

Alphonse F. Trezza,

Executive Director, NCLIS.

January 28, 1980.

[S–208–80 Filed 1–31–80; 9:47 am]

BILLING CODE 7527–01–M

8

NUCLEAR REGULATORY COMMISSION.

DATE: February 5 (changes) and 6, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, February 5

10 a.m.

1. Presentations by Commenters in UCS 2.206 Petition on Indian Point (approx 2 hours, public meeting) rescheduled from February 6.

2 p.m.

1. Briefing by Staff on UCS 2.206 Petition on Indian Point (approx 2 hours, public meeting) rescheduled from February 6.

Wednesday, February 6

10 a.m.

1. Briefing on Upgrade of NRC Operations Center (approx 2 hours, public meeting) rescheduled from February 5.

Note.—The meeting on Immediately Effective License Amendments scheduled for 2 p.m. on January 30, 1980 was cancelled.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

January 30, 1980.

[S–209–80 Filed 1–31–80; 10:29 am]

BILLING CODE 7590–01–M

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 4, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, February 5, 1980, at 10 a.m. and Thursday, February 7, 1980, immediately following the 10 a.m. and 2:30 p.m. open meeting. Open meetings will be held on Thursday, February 7, 1980, at 10 a.m. and 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 5, 1980, at 10 a.m., will be:

Formal orders of investigation.
Settlement of injunctive action.
Litigation matters.
Settlement of administrative proceeding of an enforcement nature.
Subpoena enforcement action.
Order compelling testimony.
Institution of administrative proceeding of an enforcement nature.
Settlement of injunctive action and institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Opinions.
Administrative proceedings of an enforcement nature.

The subject matter of the closed meeting scheduled for Thursday, February 7, 1980, at 10 a.m., will be:

Regulatory matter bearing enforcement implications.

The subject matter of the closed meeting scheduled for Thursday, February 7, 1980, at 2:30 p.m., will be:

Post oral argument discussion.

The subject matter of the open meeting scheduled for Thursday, February 7, 1980, at 10 a.m., will be:

1. Consideration of whether to amend report Form U–13–60, revised to conform to the amended Uniform System of Accounts for Mutual and Subsidiary Service Companies adopted by the Commission on February 2, 1979 (HCAR No. 35–20919) (44 FR 8247) and to extend the filing date for the annual reports by mutual and subsidiary service companies under the Public Utility Holding Company Act of 1935 from April 1 to May 1 of each year. For further information, please contact Robert P. Wason at (202) 523–5159.

2. Consideration of what response to make to the Freedom of Information Act ("FOIA") appeal of Mr. Stephen M. Shaw from the FOIA Officer's denial of Mr. Shaw's request for waiver of fees. For further information, please contact Harlan Penn at (202) 272–2454.

3. Consideration of whether to affirm action, taken by the duty officer, authorizing the issuance of Securities Exchange Act Release No. 16501 (January 16, 1980) by which approval was given to the application of the Pacific Stock Exchange to list call options on Resorts International A Common Stock commencing January 21, 1980. For further information, please contact Gene Carasick at (202) 272–2409.

The subject matter of the open meeting scheduled for Thursday, February 7, 1980, at 2:30 p.m., will be:

Oral argument on an appeal by Irwin Schloss, president and chief executive officer of Marcus Schloss & Co., Inc., a member firm of the New York Stock Exchange, Inc. ("NYSE"), from disciplinary action suspending Schloss for one year from membership and employment in any capacity with any NYSE member or member organization.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 272–2178

January 30, 1980.

[S–213–80 Filed 1–31–80; 1:08 pm]

BILLING CODE 8010–01–M

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 5899, January 24, 1980.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 22, 1980.

CHANGES IN THE MEETING: Deletion/additional item. The following item was not considered at an open meeting scheduled for Tuesday, January 29, 1980, at 9:30 a.m.

Consideration of whether to authorize publication of a release announcing the adoption of amendments to Rule 12b–25 under the Securities Exchange Act of 1934. For further information, please contact Bruce Mendelsohn at (202) 272–2589.

The following additional item will be considered at a closed meeting scheduled for Wednesday, January 30, 1980, at 10 a.m.

Regulatory matter bearing enforcement implications.

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

January 30, 1980.

[S–206–80 Filed 1–31–80; 4:56 pm]

BILLING CODE 8010–01–M

federal register

Monday
February 4, 1980

Part II

Draft Consumer Programs

federal register

Monday
February 4, 1980

Part II—Section A

Consumer Affairs Council

Draft Consumer Programs

CONSUMER AFFAIRS COUNCIL
Open Letter to the American Consumer

THE WHITE HOUSE

WASHINGTON

February 4, 1980

Dear Consumer:

Do you ever feel there is a lack of information on food and drug labels? Does the absence of safety features in your automobile ever worry you? Do you think long distance railroad and trucking rates are set artificially high so you are paying more transportation costs than you should? Perhaps a better question would be, "How often do you get concerned about these kinds of problems?" Agencies of the Federal government make decisions every day that affect the health, safety, and pocketbooks of consumers. You are a consumer. For that reason, what the Federal government decides to do (or not do) about food and drug labeling, automobile safety, freight rates and a host of other consumer-related issues, should be of direct and vital concern to you.

You probably think that there is little, if anything, you can do to make your government listen to you, and that nothing you say can change what government does. Not any more. We have been working long and hard over the past three years to make your government more responsive to your wants, needs and concerns.

The culmination of our efforts came in September 1979, when President Carter issued an Executive Order to change the way citizens can work with their government. The President ordered Federal agencies to take steps to improve dramatically the effectiveness of Federal consumer programs. The voice of the consumer must and will be heard and considered by agencies in making regulations and policy. Agencies will be responsive to you. Now, you can talk to us and we will listen.

This publication outlines programs several Federal agencies have proposed to improve their consumer programs (31 other agencies published proposed programs on December 10, 1979). I do hope you will read and think about the programs of the agencies that concern you. And just as importantly, I hope you will tell the agencies what you think about their programs. Only through your comments and suggestions will Federal agencies be able to fulfill the promise of the President's Executive Order and establish consumer programs that are useful to the people who matter most: you.

Sincerely,

Esther Peterson
Chairperson
Consumer Affairs Council

BILLING CODE 3195-01-C

CONSUMER AFFAIRS COUNCIL

Draft Consumer Programs

AGENCY: Consumer Affairs Council.

ACTION: Draft Consumer Programs.

SUMMARY: In cooperation with the Consumer Affairs Council, agencies of the Federal government are proposing new or revised consumer programs. (These programs follow this introductory preamble.) We are taking this action in response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs." We expect this action to result in improved and more effective Federal consumer programs, consumer programs more responsive to the needs and wishes of the public.

DATES: We are asking for comments on the consumer programs described in this publication. Any comments submitted must be received no later than April 4, 1980.

ADDRESSES: Send your comments to the agency or agencies proposing the consumer programs in which you are interested.

FOR FURTHER INFORMATION CONTACT: 1. For information on the consumer program of a particular agency, contact the person or persons listed in that agency's draft consumer program.

2. For general information on the Consumer Affairs Council or Executive Order 12160, contact Belle O'Brien, Mark Goldberg, or Gregory Jones at the Consumer Affairs Council, 495 Old Executive Office Building, Washington, D.C. 20500, 202/456–6226 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

HERE'S WHAT'S COMING

Appendices

I. TRIED TO TALK WITH YOUR GOVERNMENT LATELY?

Are you worried about the high cost of food, health care, or fuel? Do you travel on interstate highways? Do you ever visit national parks? Do you sometimes think about how much you pay in Social Security taxes? The chances are good that you answered "yes" to at least one of these questions. More than that, you probably answered "yes" to most, or all, of them. But whether your answers were mostly "yes" or mostly "no," you know that each of these areas is important to you, the consumer. As a result, your feelings are important to the Federal Government.

Unfortunately, government programs, policies, and regulations often seem remote to consumers. It is sometimes hard to get answers to simple questions. Filing a complaint with a Federal agency and getting a satisfactory response can be a struggle. Making your voice heard in a meaningful way in regulatory and policymaking decisions, which may have a substantial effect on you, can be a formidable barrier. Unless you are an attorney, or are represented before government agencies by an attorney, you may not be able to present your side of the story as persuasively as others. In the past, average consumers lacking legal counsel or an intimate understanding of how government agencies work were far too frequently at a disadvantage.

In September 1979, President Carter signed an Executive order, which we will discuss at greater length later, disigned to improve government consumer programs. The Order says that government consumer programs must be responsive to the needs of the consumer and requires that the voice of the consumer be heard and taken into account by agency decisionmakers.

This preamble discusses the background of the Executive order, the need for more effective consumer programs in government, and the consumer programs several agencies have proposed under the Executive order. (Thirty-one other agencies published proposed consumer programs in the **Federal Register** of December 10, 1979. See 44 FR 71101.) It outlines the content of the Executive order, and explains what we have done so far to implement the provisions of the Executive order. It asks for your thoughts on some of the consumer programs agencies are proposing and tells you how to let the government know what you think. Finally, it talks about steps still to be taken to make the promise of the Executive order a reality; and, it then seeks your continuing support and cooperation in making the consumer programs of the Federal government more responsive to your needs.

In reading this preamble, as well as the proposed consumer programs of agencies that interest you, you should recognize that one of our principal objectives in publishing detailed explanations of government consumer programs is to let you know how to make your voice heard in government. Although the Executive order concerns itself with a number of procedural matters, which may appear to be internal to government agencies, these matters do in fact affect you. Integrating consumer concerns into agency decisionmaking is at the base of the Executive order. We *want* to consider your thoughts and ideas and take them into account in making decisions, but we realize that we can do so only if you know how government operates and how to talk to us. Read this preamble. Then read the draft consumer programs of the agencies in which you are interested. If, having read

this preamble and various proposed agency consumer programs, you do not understand how the government intends to safeguard your interests, or how government agencies plan to consider your views in making decisions, let us know. If you have suggestions on how consumer programs in government might be improved, let us know that, too. Talking with your government is your right. But it is a right that is meaningful only if you exercise it. Exercise it!

II. HAVE WE LISTENED? (WE KNOW WE'VE GOT PROBLEMS)

There is no question that since the publication of Ralph Nader's *Unsafe at Any Speed*, which is sometimes cited as the dawn of the age of the consumer, government agencies have been more responsive to the needs of individual consumers than they were in the past. Over the past few years, many government agencies have established programs designed to assist the consumer in dealing with those agencies. These programs have varied in their scope and ambitiousness. Some have been very successful and have resulted in substantial consumer participation in agency decisionmaking processes. Sometimes, however, agency consumer programs have been superficial attempts to deal with what agencies think are the needs of the consumer and have not actually considered the consumer's concerns.

President Carter recognized that there was much room for improvement in Federal consumer programs, and in April 1978, he asked his Special Assistant for Consumer Affairs to search for ways to bring about more meaningful consumer involvement in government.

Specifically, the President asked the Special Assistant for Consumer Affairs to—

- Undertake a review of Federal agency consumer programs to determine if there was a meaningful consumer presence in each agency and whether existing programs were consistent with the consumer policies and goals of his Administration;
- Coordinate the activities of Federal agency consumer programs in order to avoid duplication and to ensure that they were efficiently administered;
- Make recommendations on how to improve consumer involvement in agency decisionmaking and advise him on the responsiveness of agencies to the needs of consumers.

To gather this information, the White House Consumer Affairs staff, with the cooperation of other government agencies and consumer, farm, labor and business groups, began a comprehensive survey and review of Federal consumer programs. A consumer program review of this magnitude had never been conducted.

In late fall 1978, a final analysis of this review was submitted to the Special Assistant for Consumer Affairs. After reviewing all the pertinent material, the President's Special Assistant for Consumer Affairs reached the following conclusions about Federal agency consumer activities:

1. Many consumer programs in Federal agencies are less effective now than they once were, and contain neither authority nor standards for their own maintenance. The decline in effectiveness of some agency consumer programs is a result principally of the low priority some agency heads give these programs, the lack of skilled management attention to the operation of existing programs, and the failure to allocate existing agency resources in a manner consistent with the Administration's consumer concerns. It is clear in most cases that a management problem exists in which no one person or office within an agency has the authority to set standards for consumer involvement and representation.

2. All too often, "consumer representation" at an agency is taken to mean the dissemination of favorable information about the agency, its personnel, and its programs.

3. Effective consumer involvement in agency decisionmaking depends upon the existence of agency procedures for public involvement. To ensure effective consumer involvement in agency decisionmaking, sufficient opportunity for citizen participation in each and every agency activity must be provided.

4. There are five primary areas in which Federal consumer programs should be functioning;

- Consumer advocacy;
- Consumer participation;
- Training of agency personnel in consumer affairs and technical assistance to consumer groups;
- Consumer education and information; and,
- Complaint handling.

Very few Federal agencies measure up in all five areas, but some agencies have developed imaginative and successful programs for the performance of key consumer functions. Collectively, the agencies are weakest in advocacy; that is, few agencies have a regular method for ensuring that agency decisionmakers are informed of the potential impact on consumers of proposed or existing policies, programs, and legislation.

III. WHY AN EXECUTIVE ORDER? (WHAT'S IN IT FOR YOU?)

On the basis of the findings highlighted in Section II, the Special Assistant for Consumer Affairs recommended that the President issue an Executive order to improve government consumer programs. (An Executive order is a directive from the President to Executive Branch government agencies.) The Order was drafted, and then reviewed by and circulated to the affected agencies and senior White House staff. The details of the Order were worked out in discussions with the Office of Management and Budget (OMB), the Office of Personnel Management, and the Department of Justice. OMB worked closely with the Special Assistant for Consumer Affairs to ensure that agency comments were considered. President Carter signed the Order on September 26, 1979.

The Executive Order establishes a comprehensive Federal policy to guide agencies in responding to consumer issues. It also stimulates the growth of a

more effective group of Federal employees responsible for consumer affairs by giving them additional tools with which to serve consumers. More specifically, the Order, which is reprinted in Appendix I of this document, seeks to improve government services to consumers by mandating changes and reforms in a number of areas. A summary of the more significant provisions of the Order follows:

Consumer Affairs Council

The Order establishes the Consumer Affairs Council to provide leadership and coordination for government consumer programs. The Council is composed fo representatives of the twelve Cabinet-level Departments and is chaired by the President's Special Assistant for Consumer Affairs.

Consumer Program Reforms

By June 9, 1980, each agency must have a consumer program designed to satisfy the needs and interests of consumers. The Order requires the consumer program of each agency to have *at least* five elements:

- *Consumer Affairs Perspective.* Agencies must have consumer staff, and agency consumer staff must participate in the formulation of agency rules, policies, programs, and legislation.
- *Consumer participation.* Agencies must take steps to ensure that individual consumers and consumer organizations are able to participate in the development of agency rules, policies, and programs.
- *Informational materials.* Agencies must produce and distribute informational materials useful to consumers.
- *Education and training.* Agencies must educate and train their staffs in the principles underlying the Executive Order, and in the skills needed to implement the Order effectively.
- *Complaint handling.* Agencies must establish systematic procedures for the efficient handling of consumer complaints. Consumer complaints must be taken into account in the formulation of agency policy.

Senior-level Oversight

Each agency must designate a senior-level official to coordinate that agency's consumer program. The designated official must report directly to the head of the agency. The official's consumer oversight responsibility must be his or here *only* responsibility.

Budget Review

Each year, each agency must provide OMB with data showing the resources the agency intends to devote to its consumer program. The Chairperson of the Consumer Affairs Council must report to OMB on the adequacy of the resources devoted to agency consumer programs.

Civil Service Initiatives

The Office of Personnel Management must consult with the Consumer Affairs Council on the need for revised job classification standards for Federal employees engaged in consumer-related activities.

Implementation of Consumer Program Reforms

Each agency is required to publish a draft consumer program for public comment within 60 days of the signing of the Executive Order. Within 30 days of the close of the public comment period, each agency must submit a revised program to the Chairperson of the Consumer Affairs Council, who is responsible for approving agency programs. Final programs must be published in the **Federal Register** no later than 90 days after the close of the public comment period, and agency programs must take effect no later than 30 days after their publication.

Agency Compliance Guidelines

On October 4, 1979, the Chairperson of the Consumer Affairs Council issued guidelines to assist agencies in designing programs to comply with the Executive Order. These guidelines are reproduced in Appendix 2 of this document. They provide the affected agencies with what is essentially a checklist the Chairperson of the Consumer Affairs Council will use to evaluate compliance with the terms of the Order.

Although not every agency is subject to the Executive order—independent agencies, among others, are exempt—the Order will help us protect your interests in an effective manner. By combining the expertise of the Office of Consumer Affairs, the Office of Management and Budget, and the Office of Personnel Management, the Order will bring needed resources to bear on the effective delivery of consumer services.

IV. What's Happened so Far?

Since release of the Guidelines for Implementation of Executive Order 12160, the Office of the Special Assistant to the President for Consumer Affairs has been working with various government agencies to implement the Executive Order. On December 10, 1979, 31 Federal agencies published draft consumer programs under the Executive Order 12160. (See 44 FR 71101.) These draft consumer programs were the first tangible product of the Executive order and represented the first step in an attempt to make Federal consumer programs more responsive to the needs of consumers. (Publication of these proposals did not signify the approval or disapproval of any particular program by the Consumer Affairs Council.) The programs in this publication are from agencies that could not, for one reason or another, publish programs on December 10.

You should know that not every Federal agency is required to comply with the Executive order; one or more agencies in which you are interested may not be participating directly in the implementation of the Executive order. The President has asked *all* independent agencies to take part on a voluntary basis, however.

Determining which agencies must comply with the requirements of the Executive order has been a concern of the Consumer Affairs Council. The Order states that an agency is covered by the Order if it is a

"department or agency in the executive branch of the Federal government." Exempted, however, are:

- Independent regulatory agencies;
- Agencies to the extent their activities involve military or foreign affairs regulations, agency management or personnel regulations, procurement regulations, and regulations promulgated during an emergency; and,
- Agencies to the extent they are able to demonstrate to the satisfaction of the Chairperson of the Consumer Affairs Council that their activites have "no substantial impact" on consumers.

Several agencies sought, and were granted, exemptions from the Executive Order. A few requests for exemption are pending. Moreover, several agencies, though entitled to exemptions from the Executive order, are complying, in whole or in part, on a voluntary basis. An exemption from the Executive order based on a finding that an agency has no substantial impact on consumers is not necessarily irrevocable. If an agency changes its programs at some point in the future, so that it begins to have a substantial impact on consumers, its status under the Order will be re-evaluated at that time.

V. WANT TO TALK WITH YOUR GOVERNMENT? HERE'S HOW

In Section I, we said that talking with your government is your right, but that is a meaningless right unless you exercise it. The draft programs outlined here will guide agencies in the development and reform of their consumer programs for years to come. So if you wish to have an effect on the shape of consumer programs in the Federal agencies, this is your chance.

Keep in mind that agencies have had a relatively short time in which to prepare their proposals. Over the coming months, agencies will be revising and refining their programs, so programs not now in compliance with the Order—and there are several—will be amended to comply with the Executive Order before their final adoption.

To permit adequate time for comment, we will be providing 60 days for consumers to prepare and submit comments on the proposed consumer programs. In order to achieve maximum public participation, we have devised a number of ways in which you might make your views on particular agency consumer programs known. These include:

Written Comments

Traditionally, government agencies have obtained much of their information from the public concerning proposed agency action from written comments. We encourage you to read and comment on the proposals of the agencies in which you are interested. We are *most* interested in receiving detailed analyses of proposed agency programs, containing concrete suggestions for ways in which proposed programs might be made more responsive to consumers; however, we welcome *all* comments, suggestions, and criticisms. Send your comments to the agency on whose program you are commenting. The correct address appears near the beginning of the agency's proposed program later in this document. If you have specific questions about the proposals an agency has made, contact the person listed at the beginning of the agency's proposed program. But whatever you do, comment. The deadline for the submission of comments is April 4, 1980. The following are two ways we are making it easier for you to submit written comments on agency consumer programs:

Guidelines Checklist

It would be very helpful for the agencies—and it might be easier for you—if your comments rate the agencies' proposed consumer programs against the specific requirements of the Executive order and the Guidelines. To assist you in evaluating the proposed plans against the standards contained in the Order and the Guidelines, we have prepared a checklist that you may use as a tool for evaluating compliance with the Executive order. We have included one copy of this evaluative checklist for your use. If you wish to use the checklist to evaluate the proposed consumer programs of more than one agency, you may make duplicate copies yourself, or you may write for additional copies. Send your request to: Checklist, Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500.

Questionnaire

If you do not have enough time to provide a detailed critique of an agency's proposal, we hope you will take a few moments to complete the brief questionnaire appearing in Appendix 3 of this document. The questionnaire is not detailed, but asks a few general questions concerning your thoughts about the proposed consumer programs of the Federal agencies that interest you.

Oral Comments

Frequently, government agencies take particularly significant proposals directly to the public by organizing public hearings or workshops in various cities. To some degree, of course, it will be up to each agency to determine the amount of public participation it will encourage in this proceeding. But the Consumer Affairs Council is planning a workshop on the Executive order and consumer programs proposed under the Order. The Workshop will be held in Washington, D.C. on February 6, 1980. This workshop will give consumers a chance to discuss the Executive order and to meet informally with representatives of the participating agencies. We will publish notice of all hearings or workshops in the **Federal Register.** We will also do our best to ensure widespread publicity for any workshops or hearings held. But please keep your eyes and ears open.

One last word on talking with the government: whether you submit written or oral comments, in reading an agency's proposal, there are a number of general questions you should bear in mind—questions which will help you prepare better comments than you otherwise might. For example, is an agency's proposal

understandable? If you think a particular proposal is "gobbledygook," say so! Ask yourself whether the agency has made a conscious effort to take *your* needs and interests into account in designing its program. Is the program adequate; that is, does it achieve the goals of the Executive Order effectively? Can you tell from the proposed program who is going to be responsible in the agency for providing decisionmakers with the consumer's perspective? Who will handle complaints, and how will complaints be handled? Unless an agency's proposal answers these and other related questions, it is deficient. And *you* should let the agency concerned know about it.

VI. WHAT'S NEXT?

As we indicated in the preceding section, publication of proposed agency consumer programs is only the first step in implementing Executive order 12160. Over the next few weeks, agencies will be receiving and evaluating comments from consumers on the proposed programs under the Executive order. The Consumer Affairs Council will continue to work with Federal agencies to implement the Executive order and to design consumer programs that are truly responsive to the needs of consumers. The Consumer Affairs Council, which at present is in its infancy, will begin to evolve into the sort of organization contemplated by the Executive order. The Council will provide leadership and will do what it can to promote efficiency in government consumer programs.

The following calendar outlines the things that still need to be done to implement Executive Order 12160 and gives the dates by which action needs to be taken:

February 4, 1980—Publication of Proposal in the **Federal Register.**

April 4, 1980—Comments on proposed programs due.

May 6, 1980—Revised program due to Chairperson of Consumer Affairs Council.

June 9, 1980—Publication of final programs in the **Federal Register.**

VII. YOU CAN HELP US DO MORE

The Executive order on improving government consumer programs is not a cure-all. It will not result in an overnight transformation of existing government consumer programs into programs completely and perfectly responsive to the needs of consumers. But it is a much-needed first step towards bringing more accountability and responsibility to Federal consumer programs.

The government has no monopoly on expertise in the area of consumer affairs. If we are to create useful and appropriate programs for the assistance of consumers, we will need your support and cooperation, both now and in the future. If you care about the activities of the Consumer Affairs Council and the activities of Federal agencies that affect consumers—and you should—please do what you can to assist us. Begin by commenting on the proposed consumer programs of the agency or agencies that interest you. (The draft agency programs published on December 10, are available from the Consumer Information Center, Department 645–H, Pueblo, Colorado 81009.) But don't stop there. Continue to work with those agencies and with the Consumer Affairs Council. If you don't, Federal consumer programs will not be as effective as they should.

Esther Peterson,

Chairperson, Consumer Affairs Council.

BILLING CODE 3195-01-M

APPENDIX 1

Executive Order 12160 Providing for Enhancement and Coordination of Federal Consumer Programs.

Note.—Executive Order 12160 was originally published in the Federal Register on September 28, 1979 (44 FR 44787).

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to improve the management, coordination, and effectiveness of agency consumer programs, it is ordered as follows:

1–1. *Establishment of the Consumer Affairs Council.*

1–101. There is hereby established the Consumer Affairs Council (hereinafter referred to as the "Council").

1–102. The Council shall consist of representatives of the following agencies, and such other officers or employees of the United States as the President may designate as members:

(a) Department of Agriculture.

(b) Department of Commerce.

(c) Department of Defense.

(d) Department of Energy.

(e) Department of Health, Education, and Welfare.

(f) Department of Housing and Urban Development.

(g) Department of the Interior.

(h) Department of Justice.

(i) Department of Labor.

(j) Department of State.

(k) Department of Transportation.

(l) Department of the Treasury.

Each agency on the Council shall be represented by the head of the agency or by a senior-level official designated by the head of the agency.

1–2. *Functions of the Council.*

1–201. The Council shall provide leadership and coordination to ensure that agency consumer programs are implemented effectively; and shall strive to maximize effort, promote efficiency and interagency cooperation, and to eliminate duplication and inconsistency among agency consumer programs.

1–3. *Designation and Functions of the Chairperson.*

1–301. The President shall designate the chairperson of the Council (hereinafter referred to as the "Chairperson").

1–302. The Chairperson shall be the presiding officer of the Council and shall determine the times when the Council shall convene.

1–303. The Chairperson shall establish such policies, definitions, procedures, and standards to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps, as are necessary or appropriate to carry out the provisions of this Order.

1–4. *Consumer Program Reforms.*

1–401. The Chairperson, assisted by the Council, shall ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Agency consumer programs should be tailored to fit particular agency characteristics, but those programs shall include, at a minimum, the following five elements:

(a) *Consumer Affairs Perspective.* Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

(b) *Consumer Participation.* Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

(c) *Informational Materials.* Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

(d) *Education and Training.* Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

(e) *Complaint Handling.* Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

1–402. The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

1–5. *Implementation of Consumer Program Reforms.*

1–501. Within 60 days after the issuance of this Order, each agency shall prepare a draft report setting forth with specificity its program for complying with the requirements of Section 1–4 above. Each agency shall publish its draft consumer program in the **Federal Register** and shall give the public 60 days to comment on the program. A copy of the program shall be sent to the Council.

1–502. Each agency shall, within 30 days after the close of the public comment period on its draft consumer program, submit a revised program to the Chairperson. The Chairperson shall be responsible, on behalf of the President, for approving agency programs for compliance with this Order before their final publication in the **Federal Register.** Each agency's final program shall be published no later than 90 days after the close of the public comment period, and shall include a summary of public comments on the draft program and a discussion of how those comments are reflected in the final program.

1–503. Each agency's consumer program shall take effect no later than 30 days after its final publication in the **Federal Register.**

1–504. The Chairperson, with the assistance and advice of the Council, shall monitor the implementation by agencies of their consumer programs.

1–505. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report on government-wide progress under this Order during the previous fiscal year. In addition, the Chairperson shall evaluate, from time to time, the consumer programs of particular agencies and shall report to the President as appropriate. Such evaluations shall be informed by appropriate consultations with interested parties.

1–6. *Budget Review.*

1–601. Each agency shall include a separate consumer program exhibit in its yearly budget submission to the Office of Management and Budget. By October 1 of each year the Director of the Office of Management and Budget shall provide the Chairperson with a copy of each of these exhibits. The Chairperson shall thereafter provide OMB with an analysis of the adequacy of the management of, and the funding and staff levels for, particular agency consumer programs.

1–7. *Civil Service Initiatives.*

1–701. In order to strengthen the professional standing of consumer affairs personnel, and to improve the recruitment and training of such personnel, the Office of Personnel Management shall consult with the Council regarding:

(a) the need for new or revised classification and qualification standard(s), consistent with the requirements of Title 5, United States Code, to be used by agencies in their classification of positions which include significant consumer affairs duties;

(b) the recruitment and selection of employees for the performance of consumer affairs duties; and

(c) the training and development of employees for the performance of such duties.

1–8. *Administrative Provisions.*

1–801. Executive agencies shall cooperate with and assist the Council and the Chairperson in the performance of their functions under this Order and shall on a timely basis furnish them with such reports as they may request.

1–802. The Chairperson shall utilize the assistance of the United States Office of Consumer Affairs in fulfilling the responsibilities assigned to the Chairperson under this Order.

1–803. The Chairperson shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate; agencies shall assign, to the extent not inconsistent with applicable statutes, such personnel and resources to the activities of the Council and the Chairperson as will enable the Council and the Chairperson to fulfill their responsibilities under this Order.

1–804. The Chairperson may invite representatives of non-member agencies, including independent regulatory agencies, to participate from time to time in the functions of the Council.

1–9. *Definitions.*

1–901. "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

1–902. "Agency" or "agencies" means any department or agency in the executive branch of the Federal government, except that the term shall not include:

(a) independent regulatory agencies, except as noted in subsection 1–804;

(b) agencies to the extent that their activities fall within the categories excepted in Sections 6(b)(2), (3), (4), and (6) of Executive Order No. 12044.

(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers.

THE WHITE HOUSE,
September 26, 1979.

Jimmy Carter

APPENDIX 2

Guidelines for Implementation of Executive Order 12160

October 4, 1979.

Memorandum to the Heads of Executive Departments and Agencies

FROM: Esther Peterson, Special Assistant To the President for Consumer Affairs and Chairperson of the Consumer Affairs Council.

SUBJECT: Guidance Regarding the Development of Consumer Programs Required by Executive Order No. 12160.

On September 26, 1979, the President issued Executive Order No. 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs". He designated me Chairperson of the Consumer Affairs Council created by the order.

As Chairperson of the Council, I will be responsible, on behalf of the President, for reviewing and approving agency programs for compliance with the Order. Draft programs are to be completed, and published in the **Federal Register** for public comment, by November 25. (Section 1–5 of the Order sets out the timetable for development and implementation of these programs. A copy of the Order is attached.)

The Order requires each agency to develop and maintain a consumer program with, at a minimum, five elements:

(1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;

(2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;

(3) Development of informational materials for consumers;

(4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and

(5) Systematic procedures for complaint handling.

The Order requires that each agency revise its operating procedures to incorporate the consumer program developed under the Order. Each agency's program should indicate the mechanism (for example, Departmental order or rule) by which this will be accomplished.

The head of each agency is required to designate a senior-level official within the agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official is to report directly to the agency head.

The purpose of this memorandum is to indicate briefly what I will be looking for in reviewing agency programs for compliance with the Order. I hope that you will find this preliminary guidance useful. If you have any questions about this memorandum, or about the Order itself, feel free to call me at 456–6590, or Belle O'Brien of my staff at 456–6534.

I look forward to working with you to make this Order a success. Thanks to the President, we now have an unprecedented opportunity to build into the structures and processes of government an enhanced responsiveness to the needs and interests of consumers.

Consumer Affairs Perspective

Requirement: Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation. (Subsection 1–401(a).)

Comment: Each agency's program for compliance with the Order should indicate:

- Where the consumer affairs staff will be located on the agency's organizational chart;
- How large it will be and what expertise and resources it will have;
- Whether the staff will have responsibilities in addition to those under 1–401(a);
- What its relationship will be to other staffs performing consumer affairs functions under the Order and to the principal operating components of the agency;
- How the consumer affairs staff will be apprised of opportunities for it to participate in the development and review of all rules, policies, programs, and legislation;
- At what stages of agency decisionmaking, in each of these four areas, participation by the consumer affairs staff will take place; and
- How the consumer affairs staff will participate (e.g., membership on agency task forces and working groups, meetings with key agency officials, written comments on proposals, and so forth).

Consumer Participation

Requirement: Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein. (Subsection 1–401(b).)

Comment: Each agency's program for compliance with the Order should indicate:

- At what stages of agency decisionmaking regarding rules, policies, and programs consumer participation will take place;
- What avenues of participation will be available to consumers in each of these types of processes (e.g., written comments, regional public hearings, membership in ad hoc working groups);

• What steps the agency will take to ensure that consumer concerns are adequately analyzed, and then considered, in decisionmaking;

• What staffs or officials in the agency will be responsible for implementing the agency's consumer participation responsibilities under the Order;

• The format, level of participating agency officials, geographical dispersion, and approximate number per year of forums the agency will hold to facilitate consumer interaction with agency officials; and

• What special efforts the agency will undertake to notify consumers of opportunities to participate in agency decisionmaking (e.g., publication of notices in periodicals other than the **Federal Register**).

Informational Materials

Requirement: Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them. (Subsection 1–401(c).)

Comment: Each agency should include in its consumer program a discussion of printed and audiovisual informational materials in each of the three areas identified in the Order (agency responsibilities and services, procedures for consumer participation, and marketplace information), including:

• An assessment of the currency, completeness, and utility of current informational materials in each area;

• Plans for additional or revised informational materials to rectify present inadequacies;

• The timetable for new informational materials;

• The manner in which the informational materials will be distributed; and

• The staffs or officials who will be responsible for planning and carrying out the agency's consumer information program.

With respect to the requirement that agencies make available explanatory materials regarding meetings open to the public, each agency should indicate:

• Which staffs or officials will be responsible for preparing these materials;

• The format of the materials; and

• The manner in which their availability is to be publicized and their distribution effected.

Education and Training

Requirement: Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations. (Subsection 1–401(d).)

Comment: Each agency should indicate in its consumer program:

• Which staffs or offices will be responsible for edcuating staff members about the Order and the agency's activities under it;

• How that educational process will be carried out (e.g., briefing sessions for policymaking personnel, circulation of the Order and related materials);

• What steps the agency will take to ensure that significant changes in the structure or procedures of its consumer program will be promptly communicated to agency staff members;

• Who will be responsible for providing specialized training to consumer affairs personnel;

• In what areas (e.g., complaint-handling, consumer participation procedures, preparation of informational materials for consumers) training will be provided, and on what basis decisions will be made as to which consumer affairs personnel will be offered training and on what topics.

Agencies that decide to provide technical assistance to consumers and their organizations should indicate:

• By whom such assistance will be provided;

• What sort of technical assistance will be made available (e.g., answering scientific, technical, or procedural questions, assisting consumers and groups in the preparation of applications, forms, and other documents); and

• How decisions will be made as to which consumers and organizations, from among those seeking technical assistance, will be provided such assistance.

Agencies that decide not to provide technical assistance should include in their consumer programs a discussion of why such assistance is not considered appropriate.

Complaint Handling

Requirement: Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy. (Subsection 1–401(c).)

Comment: Each agency should develop procedures to govern each stage of the complaint-handling process. Thus, each agency should indicate what procedures will be followed, and which officials and staffs will be responsible, for:

• Heightening public awareness of the receptivity of the agency to complaints, and the manner in which, and offices with which, such complaints are to be filed;

• Logging in, in a standard format and in accordance with standard topical categories, all complaints received by the agency, including those received by telephone. (The format, and categories used in logging in complaints should be designed to facilitate subsequent performance of tracking and analysis functions);

• Routing complaints to appropriate agency offices for investigation and analysis;

• Tracking agency handling of complaints, from receipt forward, to ensure that they are investigated and responded to expeditiously and to permit

identification of key bottlenecks in the complaint-handling process;

- Responding to complaints (these procedures should include a format for acknowledgements and responses, and should establish a deadline for the transmittal of acknowledgement of complaints, outlining steps that will be taken by the agency, indicating who may be contacted for further information, and specifying an expected resolution date);
- Statistical reporting of complaints according to topical categories, and analysis of the patterns of issues raised and their implications for agency policymaking;
- Regular reports to key agency officials regarding the patterns and policy implications of the complaints received; and
- Evaluation of the agency's complaint-handling system to assess the promptness and quality of agency responses.

Oversight

Requirement: The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers or particular policy initiatives under development of review within the agency. (Subsection 1–402.)

Comment: Each agency should indicate the title, GS-level, and organizational placement of the designated official, and should describe with particularity the nature of the official's responsibilities and authority, and the ways in which the official will interact and interface with other agency offices and staff members, including those who are performing consumer affairs responsibilities under the Order.

Form Approved:
OMB No. 116S79021

APPENDIX 3

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?

   ☐ I am interested in it as an individual consumer.

   ☐ I am concerned about it, because I represent a public interest consumer group.

   ☐ I am concerned about it, because I represent a private company or organization.

2. After reading about our consumer program, do you think you understand how it works?

   ☐ Yes, it is clear and I understand it.

   ☐ Yes, I understand most of it.

   ☐ No. Much of it is not clear to me.

3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?

   ☐ Yes.

   ☐ No. Why?_____

4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?

   ☐ It seems adequate.

   ☐ It is not adequate. Why?_____
   _____

5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?

   ☐ Adequate.

   ☐ Not adequate. Why?_____

6. After reading our proposed consumer program, do you know whom or which office in _____ _____ (agency) to contact if you have:

   A complaint? ☐ Yes. ☐ No.

   A general question about the agency? ☐ Yes. ☐ No.

   A question about how to take part in agency proceedings? ☐ Yes. ☐ No.

7. Do you know who or which office in _____ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? _____

8. Do you have any suggestions for improving our consumer program?

   ☐ No.

   ☐ Yes, in the following areas:

   Consumer participation_____
   _____

   Informational materials_____
   _____

   Complaint handling_____
   _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

_____
(Your name)

_____
(Your address)

_____
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

FORM APPROVED:
OMB No. 116S79021

APPENDIX 4

EXECUTIVE ORDER 12160 COMPLIANCE CHECKLIST

This checklist is based on the Guidelines for compliance with Executive Order 12160, issued on October 4, 1979 (Appendix 2 of this document). You may use this checklist, in conjunction with the Executive Order and the Guidelines, to study the consumer program of the agency that interests you. After you study the consumer program of an agency, send your comments directly to that agency.

AGENCY:	IS THE POINT COVERED?	WILL IT WORK?
CONSUMER AFFAIRS PERSPECTIVE		
Where is consumer staff on organization chart?		
Size, resources, expertise of staff?		
Staff have additional responsibility?		
What is relationship of consumer staff to other agency staff?		
How will consumer staff be told of opportunity to participate?		
When will consumer staff participate?		
How will consumer staff participate?		
CONSUMER PARTICIPATION		
At what stages will it occur?		
What avenues of participation are available?		
What steps will be taken to consider consumer concerns?		
What staff will be responsible for implementation?		
What about public forums?		
Any other special efforts?		
INFORMATIONAL MATERIALS		
Currency, completeness and utility of existing material?		
Plan to rectify inadequacy of existing material?		
Timetable for new material?		
How will it be distributed?		
What staff is responsible?		
For material concerning "open meetings"		
Who will prepare it?		
What format will be used?		
How about publicity/distribution?		

	IS THE POINT COVERED?	WILL IT WORK?
EDUCATION AND TRAINING OF AGENCY STAFF		
Who is responsible for educating agency staff about the Order?		
How will it be done?		
How will changes in the consumer program be communicated to the staff?		
Who is responsible for special training of consumer staff?		
In what areas will training be offered?		
For technical assistance to consumers:		
Who will provide it?		
What kind will be provided?		
How will decisions about who gets it be made?		
COMPLAINT HANDLING		
Heighten public awareness?		
Log all complaints?		
Route complaints properly?		
Track complaints?		
Respond to complaints?		
Statistical reports on complaints?		
Regular reports to key officials?		
Evaluation program?		
OVERSIGHT		
Title?		
GS (grade) level?		
Organizational placement?		
Responsibilities?		
How will official interact with others?		

_____
your name

_____
street

_____
city, state, zip

[FR Doc. 80-3164 Filed 2-1-80; 8:45 am]
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federal register

Monday
February 4, 1980

Part II—Section B

Equal Employment Opportunity Commission

Draft Consumer Program

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Draft Consumer Program

AGENCY: Equal Employment Opportunity Commission
ACTION: Draft Consumer Program

SUMMARY: As required by Executive Order 12160, the Equal Employment Opportunity Commission is publishing a draft report on its consumer affairs program. Comments from the public are welcomed and may be submitted on the questionnaire attached as Appendix A to this report or in any other form convenient for the individual.

COMMENT DATE: Comments must be received by April 4, 1980.

ADDRESS: Comments should be addressed to Marie Wilson, Executive Secretariat, Equal Employment Opportunity commission, 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634–6595.

DRAFT REPORT ON THE CONSUMER AFFAIRS PROGRAM OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

I. Introduction

The Equal Employment Opportunity Commission has always placed a high priority on serving the needs and soliciting the views of consumers and members of the public. The recent Presidential Order on Federal Consumer Programs requires each agency to review and improve its operating procedures to ensure that consumer needs and interests are adequately considered. Specifically, the Order requires that each agency's consumer activities include the following five elements:

1. *Consumer Affairs Perspective:* ensure that the consumer perspective is considered in the development and review of all agency rules, policies and programs;
2. *Consumer Participation:* provide opportunities for consumer participation in the development and review of all agency rules, policies and programs;
3. *Informational materials:* produce and distribute informational materials for consumers;
4. *Education and Training:* provide consumer affairs training for agency personnel; provide technical assistance to consumers and consumer organizations;
5. *Complaint Handling:* develop systematic procedures for investigating and responding to consumer complaints. This report will discuss the Commission's activities in each of these five areas. As a preliminary matter, the report will summarize the Commission's responsibilities and identify the consumers affected by the Commission's programs.

II. Consumers Affected by Commission Programs

The Equal Employment Opportunity Commission is responsible for enforcing several statutes which prohibit employment discrimination on the basis of race, color, religion, sex, national origin or age. The Commission is also responsible for assuring that equal employment opportunities are extended by the Federal Government to handicapped individuals.

In the area of private employment, the Commission's functions include receiving, investigating and attempting to conciliate complaints of employment discrimination. Where appropriate, the Commission may also bring suit in Federal court to enforce the statutes which it administers. The Commission performs the same functions concerning complaints of employment discrimination against State and local governments, except that court suits in some of these cases must be brought by the Attorney General.

In the area of Federal Government employment, the Commission is responsible for establishing procedures to be followed by other agencies in processing complaints of discrimination and for hearing appeals from agency decisions on such complaints. The Commission also oversees the affirmative action programs of other Federal agencies.

The Commission is engaged in some rulemaking activities. The Commission issues regulations setting forth its procedures for accepting, investigating and resolving complaints of discrimination. It also issues interpretative guidelines which define discriminatory employment practices. The Commission is also responsible for coordinating all equal employment opportunity programs and policies of the Federal Government in order to ensure consistency and eliminate duplication among these programs.

As can be seen from the above description, the work of the Commission has an impact on employees and applicants for employment whether in the public or private sector. Particularly affected are those individuals who feel that they have been the victims of discriminatory employment practices.

III. Consumer Affairs Perspective

Section 1–401(a) of the President's Order requires each agency to ensure that the consumer perspective is considered during the development and review of all agency rules, policies, programs and legislation. At the Equal Employment Opportunity Commission, this function is performed by the Commission's Office of Policy Implementation.

The Office of Policy Implementation is responsible for developing and reviewing Commission policy. It does this through the development of interpretative guidelines, regulations and policy statements for the Commission, and by writing Commission decisions on charges of discrimination which involve novel issues. The staff of the Office of Policy Implementation is involved in the development of Commission policy from the initial identification of areas needing policy guidance up until the final adoption of policy by the Commission. Staff members participate in the research and analysis of the issues, the drafting of policy documents, the solicitation of public comments, and the preparation of the final regulation or policy statement.

Policy options being considered by the Office of Policy Implementation are also discussed at the weekly meetings of the Staff Committee on Equal Employment Opportunity Commission Policy (SCEP). SCEP is chaired by a Commissioner on a rotating basis and is composed of the Special Assistants to the Commissioners, representatives of the Office of Policy Implementation, a designee of the Office of General Counsel, and other headquarters staff as appropriate. The function of SCEP is to ensure the Commissioners' early involvement in the development of policy. Once a regulation or a policy statement has been developed by the Office of Policy Implementation and SCEP, it is presented to the Commission for final approval.

The purpose of policy development at the Commission is to protect the right to equal employment opportunity and to provide adequate means for remedying instances of discrimination. Consideration of the needs and interests of individuals aggrieved by employment discrimination is a central and integral part of this process and the work of the Office of Policy Implementation. The Office of Policy Implementation keeps itself informed about consumer needs and views by soliciting public comments on proposed regulations and guidelines, and by holding informational hearings. The Office staff is composed of attorneys, economists and statisticians. It thus has the staff capability to analyze the impact of various proposals on the consumers of the Commission's services.

The President's Order calls for the establishment of a "consumer affairs" office within each agency to represent the consumer perspective in the agency's policy development process. The Commission has determined that compliance with this portion of the Order is neither necessary nor feasible in light of the Commission's mission and functions. The consumers of the Commission's services are employees and applicants for employment aggrieved by job discrimination. All policy development at the Commission is intended to protect the rights and provide for the needs of these "consumers." As stated above, consideration of the interests of individuals and groups who may be the victims of discrimination is a central part of the function of the Office of Policy Implementation. For this reason, the establishment of a separate office to consider the consumer perspective in policy development would not be appropriate. Such an office would merely duplicate functions necessarily performed by the Office of Policy Implementation.

IV. Consumer Participation

Section 1–401(b) of the Executive order requires each agency to "establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies and programs." The Commission's process for developing policy and regulations does provide substantial opportunity for consumer participation.

All significant proposed regulations developed by the Commission are published in the **Federal Register** for notice and public comment. Except in unusual circumstances, a 60 day public comment period is provided. Where appropriate, the Commission also holds hearings on proposed regulations, at which members of the public may make oral presentations. In the past, members of civil rights, labor, business and professional groups have actively participated in Commission hearings.

Over the last few years, the Commission has been making a concerted effort to involve members of the public at the earliest stages of policy development. A good example is provided by the process used to develop the Commission's proposed guidelines on religious discrimination. Before proposed guidelines were drafted, the Commission held extensive public hearings, at several locations across the country, on the problem of religious discrimination. This procedure permitted the views of affected groups to be expressed and considered before any basic policy choices were made by the agency. The information gathered at these hearings proved very useful in determining both the need for and the content of the Commission's proposed policy in this area. Once proposed guidelines were drafted, the public was again invited to comment. The Commission plans to use similar techniques in the future for involving the public at an early stage of policy formulation.

In future rulemaking proceedings, the Commission plans to experiment with a number of means, in addition to publication in the **Federal Register**, of notifying members of the public of their opportunity to comment on Commission proposals. The alternatives being considered include placing notices in periodicals likely to be read by individuals affected by the regulations and direct mailings to interested groups and individuals. Starting in January 1980, notices of opportunities to participate in Commission hearings and to submit written comments on proposed regulations will be published in a Commission magazine entitled "MISSION." (This magazine is discussed in greater detail in § V(b).) The Commission will also continue its current practice of issuing press releases concerning Commission rulemaking proceedings. These press releases include information on how the public may participate.

Comments received on a proposed regulation are carefully analyzed before the regulation is adopted in final form. The preamble to each final regulation contains a summary of the comments received and the Commission's response to these comments.

The office which develops a regulation is responsible for ensuring that public comments are solicited and considered during the rulemaking proceedings. Generally, the office developing the regulation will be the Office of Policy Implementation.

Commission Meetings

Most portions of the Commission's weekly meetings are open to public observation. Commission meetings are usually held on Tuesday mornings at the Commission's headquarters in Washington, D.C. The agenda for each meeting is published in the **Federal Register** a week in advance. Interested individuals may also call (202) 634–6748 for a recorded message

stating the time, place and agenda for the upcoming Commission meeting.

Consumer Forums

Since January 1978, the Chair of the Commission has been holding quarterly meetings with representatives of groups affected by the work of the Commission. Meetings have been held with representatives of groups concerned with discrimination against women, Hispanics, Asian Americans, the handicapped and workers over age 40. These meetings provide opportunities for consumers to voice their views on the problem of discrimination and the effectiveness of the Commission. Participants are also provided with information on new Commission programs and policies.

V. Informational Materials

Section 1–401(c) of the President's Order requires each agency to produce and distribute materials to inform consumers about: (1) the agency's responsibilities and services; (2) the agency's procedures for consumer participation; and (3) aspects of the market place for which the agency has responsibility.

a. Informational Material Currently Available

The Commission's Office of Public Affairs is responsible for publishing material designed to inform members of the public about Commission responsibilities and services. Current material available includes:

1. A pamphlet entitled "Know Your Rights" which explains the right to be free of job discrimination afforded by Title VII of the Civil Rights Act of 1964. It also explains how to file a charge of discrimination with the Commission;
2. A booklet entitled "EEOC: The Transformation of an Agency" which describes recent changes in procedures and functions of the Commission;
3. Various posters which explain the work of the Commission and the right to be free of job discrimination;
4. Pamphlets on the Commission's new responsibilities in the area of equal pay and age discrimination.

Through the Commission's bilingual information program, press releases and several of the Commission's pamphlets are made available to the public in Spanish as well as English.

In addition, the Commission issues reports concerning the employment of women and minorities in the United States. These are usually in the form of statistical tables which summarize employment data by geographical area, industry and job category.

b. Plans for Additional Material

The office of Public Affairs plans to revise several Commission publications which have become obsolete due to changes in the law and the transfer of new responsibilities to the Commission. One of these publications is "Laws and Rules You Should Know." This booklet is a helpful source of information for anyone interested in the field of equl employment opportunity law as it contains the text of relevant statutes, executive orders and regulations. The Commission also is preparing a new packet of informational material for consumers which summarizes the functions and structure of the Commission, and describes the laws which the Commission administers. This packet will include information on how to participate in Commission rulemaking proceedings.

Starting in January 1980, the Commission will resume publication of a quarterly magazine entitled "MISSION." The magazine will report on new programs and developments at the Commission and in the field of equal employment opportunity law. It will contain information on new Commission regulations and on proposed rulemaking. The magazine will be sent to community, public interest and civil rights groups and other interested members of the public. Individuals and groups interested in receiving "MISSION" may request to be included on the mailing list by writing to: Office of Public Affairs, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

c. Distribution of Material

The informational material described above is displayed in the Commission's District Offices and in the Office of Public Affairs at headquarters. Copies of Commission publications will be mailed to members of the public upon request. Material summarizing the work of the Commission and describing how to file a charge of discrimination has also been provided to the "Federal Information Centers." These centers are located across the country and are run by the General Services Administration of the Federal Government. Informational material is also distributed by Commission officials during their numerous speaking engagements before groups interested in equal employment opportunity.

d. Commission Offices Responsible for Publication and Distribution of Informational Material

Most of the Commission's informational material is published by the Commission's Office of Public Affairs. An exception is the Commission's statistical publications on the employment of women and minorities in the United States. This material is published by the Survey Branch of the Commission's Office of Program Planning and Evaluation.

e. Background Material for Commission Meetings

Section 1–402(c) of the President's Order also requires agencies to make available to consumers who attend agency meetings materials designed to make those meetings comprehensible to them. The weekly meetings of the Commission are generally open to the public. The Commission does not consider it feasible to publish written background materials for each of these weekly meetings. As noted previously, however, the agenda for each Commission meeting is published in the **Federal Register** a week in advance. Interested individuals may also call (202) 634–6748 for a recorded message stating the agenda of the upcoming meeting. If

additional information is needed, individuals may leave a message at the conclusion of the recording and the call will be returned by a Commission official.

VI. Education and Training

Section 1–401(d) of the Executive order requires agencies to engage in three kinds of training activities concerning consumer affairs. These are: (1) educating staff members about the Federal consumer policy embodied in the Executive Order and about the Agency's program for carrying out that policy; (2) specialized training for consumer affairs personnel; and (3) technical assistance for consumers and their organizations. The Commission has the following training and technical assistance programs:

A. Educating Staff About the Federal Consumer Policy

The Commission plans to educate staff members about the Commission's consumer program by circulating copies of the President's Order and this report to the heads of all offices within the Commission and to all staff members in offices that will be directly involved in carrying out the program (for example, Office of Policy Implementation and Office of Public Affairs).

B. Specialized Training

The Commission currently is involved in an extensive effort to provide training to its staff on complaint handling procedures. New employees receive a two week course which includes training in equal employment opportunity law and case processing skills. Participants in the course receive instruction in counseling, intake, conducting fact-finding conferences, writing determinations and negotiating settlements. Class sizes are small (20–30 people), enabling participants to practice the skills being taught through role-playing. Experienced employees periodically receive training concerning new procedures and new developments in equal employment opportunity law. In addition, staff members in the Office of Public Affairs have attended seminars and training courses on how to produce more effective informational material for the consumer.

C. Technical Assistance to Consumers

The Commission has had a long-standing commitment to providing technical assistance to individuals who wish to pursue their right to equal employment opportunity through private lawsuits. These programs of technical assistance include:

1. *Attorney Referral System.* Each District Office of the Commission maintains a list of attorneys willing to and capable of representing plaintiffs in employment discrimination suits. Upon request, individuals who file charges of discrimination with the Commission may be referred to one of these attorneys.

2. *Area Bar Center Program.* This program provides technical assistance, litigation support and continuing legal education to attorneys representing plaintiffs in employment discrimination cases. The aim of the program is to ensure that sufficient trained and competent attorneys will be available to assist aggrieved individuals in exercising their rights under Federal law. The Commission has entered into contracts with educational and non-profit organizations that will administer the Area Bar Center program in each of five geographical areas. The contractors will conduct training seminars, provide sample legal pleadings (Complaints, Motions, Interrogatories) to attorneys, maintain background and research material on employment discrimination law and provide individual assistance to attorneys in their representation of persons aggrieved by employment discrimination.

3. *The Loan Fund Program.* This program provides loans ($1,500 for an individual action and $7,500 for a class action) to private attorneys to help defray the plaintiff's costs in bringing employment discrimination litigation. Certain criteria have been established to determine which cases receive priority funding. An attorney receiving a loan must reimburse the fund if the plaintiff prevails in the litigation and costs are recovered. The Commission has entered into contracts with non-profit organizations that will administer the Loan Fund Program in several Federal judicial circuits.

VII. Complaint Handling

Under the President's Order, agencies are required to establish procedures for systematically logging in, investigating and responding to consumer complaints, and for integrating an analysis of complaints into the development of policy. The Commission's primary statutory obligation is to investigate and resolve complaints of employment discrimination filed by members of the public. Over the last few years, the Commission has developed a highly professional and efficient system for processing these complaints.

A. Commission Procedures

The basic stages of complaint processing are established by statute. The Commission is required to accept charges of discrimination, conduct investigations, and issue determinations on whether there is reasonable cause to believe that the charges are true. If the Commission finds reasonable cause to believe that discrimination occurred, it is required to attempt conciliation of the charge. If conciliation fails, either the Commission or the complainant may bring suit in Federal court.

The Commission has 22 District and 27 Area Offices which receive and process charges of discrimination. In addition, the Commission has dual filing and work sharing agreements with some 69 State and local fair employment practice agencies which have enforcement authority over employment discrimination complaints. A complaint filed with one of these agencies is automatically filed with the Commission; one filed with the Commission is automatically filed with the State or local agency. By use of work sharing agreements, the combined resources of Federal, State and local agencies are utilized to the best advantage of the complainant, and duplication of investigation is minimized.

In the past, the Commission has suffered from large backlogs of uninvestigated charges and lengthy processing delays. During the last two years, major reforms of the charge processing system have enabled the Commission to process current charges within reasonable timeframes and to retire a large percentage of its backlog. The major features of the Commission's new procedures are:

1. Professionalized intake counseling to ensure that the complainant has a problem falling within the jurisdiction of the Commission;

2. Innovative investigative techniques including a face to face conference between the complainant and the employer at which information is exchanged and voluntary settlement attempted;

3. Emphasis on early resolution of complaints through voluntary settlement; and

4. Use of a "litigation worthy" standard in determining whether violations of the law have occurred. This ensures that each Commission finding of discrimination is supported by a sound evidentiary record, thereby facilitating pursuit of the matter in court if conciliation fails.

Using these new procedures, the Commission has been able to resolve most new charges expeditiously, with a large number of complainants receiving monetary or non-monetary benefits through voluntary settlement.

If the Commission is unable to resolve a complaint through conciliation, either the Commission or the complainant may seek relief in Federal court. The Commission's Office of General Counsel has an active litigation program through which the Commission files suit on behalf of aggrieved individuals in appropriate cases. The Commission also participates in numerous discrimination suit brought by private individuals, either by intervening in those suits or by filing "friend of the court" briefs. Through these activities, the Commission exerts an influence on the development of equal employment opportunity law and makes its legal expertise available to persons complaining of employment discrimination.

In addition to investigating individual charges of discrimination, the Commission also initiates its own investigations of employers and unions whose employment practices tend to exclude women or minorities on a class-wide basis. These investigations are conducted by special "systematic units" in the Commission's 22 district offices and by the Office of Systemic Programs in headquarters. The Office of Systemic Programs is also responsible for providing guidance and support to the systemic units in the district offices. The Commission strives to resolve systemic charges during the administrative process, but suit will be filed in court when voluntary resolution is not possible.

B. Logging in, Tracking and Statistical Report of Complaints

The Commission has developed a computerized system for logging in and tracking complaints of discrimination. This system also generates considerable statistical data concerning the complaint process. Monthly reports summarizing the performance of the Commission's field offices are distributed to the Commissioners, senior staff in headquarters and the directors of the Commission's district offices. These reports include the following information for the month in question: (1) number of complaints received; (2) number of complaints closed; (3) disposition of the complaints; (4) monetary and non-monetary benefits achieved for the complainants; and (5) average processing times. These monthly reports are used primarily in management planning (for example, planning staffing patterns or revising procedures which are causing delays in resolving complaints). A second series of reports, prepared at least annually, summarizes the number of charges filed with each Commission district office according to the basis of the discrimination alleged (e.g. race, sex), and the type of respondent named in the charge (e.g. private employer, union). These reports, along with the information gathered by the Commission on the employment of women and minorities in the United States, are used in the development of Commission policy.

C. Public Knowledge of Complaint Procedures

By statute, employers, employment agencies and labor unions are required to post notices which inform employees and applicants of their right to equal employment opportunity and of the procedures for filing a compliant of discrimination with the Commission. Through its District Offices and the Federal Information Centers, the Commission also distributes pamphlets containing this information.

VIII. Offices To Contact

Individuals wishing to receive additional information on the Equal Employment Opportunity Commission may contact the following offices:

A. For information on how to file a charge of discrimination, contact any of the Commission's District or Area offices. The Commission has 49 such offices located in cities across the country. Individuals may also contact the Office of Public Affairs, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, Telephone Number (202) 634–6930.

B. For information on Commission rulemaking proceedings and opportunities for public participation, contact the Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, Telephone Number (202) 634–7060.

C. To find out the time, place and agenda of meetings of the Commission, contact the Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, Telephone Number (202) 634–6748.

D. For informational material, pamphlets or general questions about the Commission, contact the Office of Public Affairs, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506. Telephone Number (202) 634–6930.

IX. Public Comments Invited

The Commission hopes this report has been helpful in explaining the Commission's consumer affairs activities. Members of the public are strongly encouraged to comment on this report.

Signed this 22nd day of January 1980.

For the Commission.

Eleanor Holmes Norton,

Chair.

BILLING CODE 6570-06-M

Appendix "A" OMB No. 1165/9021

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____(agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?

   ☐ I am interested in it as an individual consumer.

   ☐ I am concerned about it, because I represent a public interest consumer group.

   ☐ I am concerned about it, because I represent a private company or organization.

2. After reading about our consumer program, do you think you understand how it works?

   ☐ Yes, it is clear and I understand it.

   ☐ Yes, I understand most of it.

   ☐ No. Much of it is not clear to me.

3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?

   ☐ Yes

   ☐ No. Why?_____

4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?

   ☐ It seems adequate.

   ☐ It is not adequate. Why?_____

   _____

5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?

   ☐ Adequate.

   ☐ Not adequate. Why?_____

6. After reading our proposed consumer program, do you know whom or which office in _____(agency) to contact if you have:

   A complaint? ☐ Yes ☐ No

   A general question about the agency? ☐ Yes ☐ No

   A question about how to take part in agency proceedings? ☐ Yes ☐ No

7. Do you know who or which office in _____(agency) speaks for the consumer? ☐ Yes ☐ No Any suggestions for improvement?_____

8. Do have any suggestions for improving our consumer program?

   ☐ No

   ☐ Yes, in the following areas:

   Consumer participation_____

   _____

   Informational materials_____

   _____

   Complaint handling_____

   _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

_____
your name

_____
your address

_____
city, state, zip

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

[FR Doc. 80-2677 Filed 2-1-80; 8:45 am]
BILLING CODE 6570-06-C

federal register

Monday
February 4, 1980

Part II—Section C

Federal Emergency Management Agency

Draft Consumer Program

FEDERAL EMERGENCY MANAGEMENT AGENCY

Draft FEMA Consumer Affairs Program

[Docket FEMA-MISC.-80-1]

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Request for Public Comment on Draft FEMA Consumer Affairs program.

SUMMARY: The draft program issued in accordance with E.O. 12160 sets out the organizational arrangements, including oversight, for the FEMA consumer affairs program, the procedures by which FEMA will involve consumers early in the development of agency programs, its informational, training, and educational activities for the consumer affairs program, and its complaint-handling process.

DATE: Send comments on or before April 4, 1980.

ADDRESS: Send Comments to Rules Docket Clerk, Federal Emergency Management Agency, 1725 I Street, N.W., Washington, D.C. 20472.

FOR INFORMATION CONTACT: John McKay, (202) 634-4179.

SUPPLEMENTARY INFORMATION: FEMA was established, effective April 1, 1979 in order to unify key federal emergency management and assistance functions. It consolidated emergency preparedness mitigation and response activities of five agencies, and added other emergency functions. They include the disaster relief, civil defense, flood insurance, civilian fire prevention and control, and federal mobilization programs. Statutory functions were either transferred to the Director of FEMA by Reorganization Plan No. 3 of 1978, or delegated by Executive Order 12148, effective July 15, 1979. FEMA is headed by a Director and has a headquarters staff located in Washington, D.C., and ten regional offices located in the ten Federal regional cities.

1. CONSUMER AFFAIRS PERSPECTIVE

The Federal Emergency Management Agency programs and activities cover a broad range of specific constituencies as well as the general public. Programs range from public and individual disaster assistance, the provision of flood insurance, personnel and administrative expenses for preparedness and emergency planning functions in state and local governments, a series of fire prevention programs and civilian aspects of defense mobilization. Because substantial financial assistance is furnished to state and local governments, the Agency's perspective on consumer issues includes its intergovernmental and constituency services as well as the general public.

Accordingly, the Director, FEMA, plans to redesignate the Division of State and Local Affairs in the office of Public Affairs as the Division of Intergovernmental and Consumer Affairs. The Division head will report directly to the Agency Director on consumer matters as well as the Associate Directors, Assistant Director, and Office Directors on matters pertaining to their responsibilities. FEMA feels that Intergovernmental Affairs and Consumer Affairs are essentially the same, and the functions of this division will be consumer oriented whether dealing with state and local governments, constitutency groups, or the general public.

A specific consumer affairs position will be created in the newly designated Division of Intergovernmental and Consumer Affairs. The Division will be responsible for the coordination and monitoring of all consumer functions in the Agency. Each program area will remain responsible for responding to consumer inquiries and, in conjunction with the Division of Intergovernmental and Consumer Affairs, for insuring that the programmatic, policy development, rulemaking, and legislative development processes are opened up to an affirmative program of consumer viewpoint solicitation. The Consumer Affairs office will have a mandate to become involved in all consumer-related affairs throughout the agency.

Each program area will designate a consumer affairs liaison officer who will apprise the Division of Intergovernmental and Consumer Affairs of opportunities for consumer invovlement. The Division will actively solicit input from consumer representatives on draft documents through both correspondence and special consultative meetings with agency personnel.

The consumerist initiative of FEMA's Federal Insurance Administration begins with the Administrator, and finds expression in all of FIA's program elements.

The identifiable consumer affairs division in FIA coordinates the consumer-related activities, reports to the Administrator, and generally assures the consideration of legitimate consumer interests and the development and review of FIA rules, policies, program, and legislative proposals.

2. CONSUMER PARTICIPATION

Consumer participation in the Federal Emergency management Agency's policy, programmatic, and rulemaking functions will occur at all stages in the process. This will primarily consist of correspondence with identified representatives of consumer groups and special constituencies of specific programs involved. FEMA has issued a proposed rule requiring notice of and allowing public comment on FEMA rules before they become final even where normally exempt. Consumer participation on working groups will be arranged as appropriate. Notification of public hearings and other forums will be made through special mailings and notices as well as through the regular government channels.

In addressing flood insurance issues, FIA regularly meets with an ad hoc private sector committee which is comprised of insurance companies and agents associations, State insurance regulators, and consumer groups. Similarly, FIA meets with representatives of the mortgage banking industry and the Federal financial instrumentalities with respect to flood insurance program initiatives affecting that segment of the private sector.

Also, representatives of consumer groups have been invited to join local program advisory groups in each of five demonstration cities chosen to undertake an educational and promotional program relative to crime insurance and the availability of essential property insurance in the private insurance market.

3. INFORMATIONAL MATERIAL

The Office of Public Affairs, in conjunction with the program staff, will undertake a three-fold review of existing printed and audio-visual materials on each of the agency's programs to assess their accuracy, availability, and distribution to appropriate persons and groups. This review will result in a written assessment and recommendations for additions, deletions, or revisions of the information and how it is made available to appropriate individuals. This assessment should be completed, with new materials developed and distributed, by the end of Fiscal Year 1980.

This assessment will include participation by user and consumer groups. A list of the kinds of informational materials and activities undertaken by FEMA is included as Attachment I.

FIA has available to its consumers a variety of literature on its programs. Among these are Questions and answers, publications on its program areas, and brochures on how to read flood hazard boundary maps and flood insurance rate maps. The servicing agent for the NFIP also makes available a wide variety of promotional and informational material (see attached list—Attachedment 2).

EDUCATION AND TRAINING

It is the desire of the Federal Emergency Management Agency to develop a high degree of sensitivity to consumer needs and concerns among all agency staff. The Division of Intergovernmental and Consumer Affairs will work with Employment Development Division staff to develop a training program for all agency staff as well as to identify opportunities for more specialized training for consumer affairs personnel.

Immediate steps that will be taken will include, but not be limited to, the following:

- All agency employees will be provided a copy of Executive Order 12160 with appropriate explanatory material.
- All agency employees will be provided a copy of this draft Consumer Program.

Procedures for an ongoing internal distribution of consumer information, including materials developed under the activity outlined in the preceding section on "Informational Materials" will be developed by the Division of Intergovernmental and Consumer Affairs.

The Employee Development Division will work with the Consumer Affairs staff to identify existing training programs, develop new programs where there is a recognized need, and to assist consumer affairs personnel.

Technical assistance to consumer groups will be provided by the program offices. This assistance can be obtained by writing to the appropriate program office, the Division of Intergovernmental and Consumer Affairs or the Director of the Agency.

5. COMPLAINT HANDLING

A guide for complaint handling will be developed by the agency for implementation by the Regional Offices, program offices, and other agency elements. This guide will establish procedures for logging, routing, tracking, responding, and filing complaints. Additionally, an agency-wide reporting system will be developed to provide compreshensive reports to agency managements and the agency Director. These reports will serve as tools to detect problem areas and measure agency performance.

6. OVERSIGHT

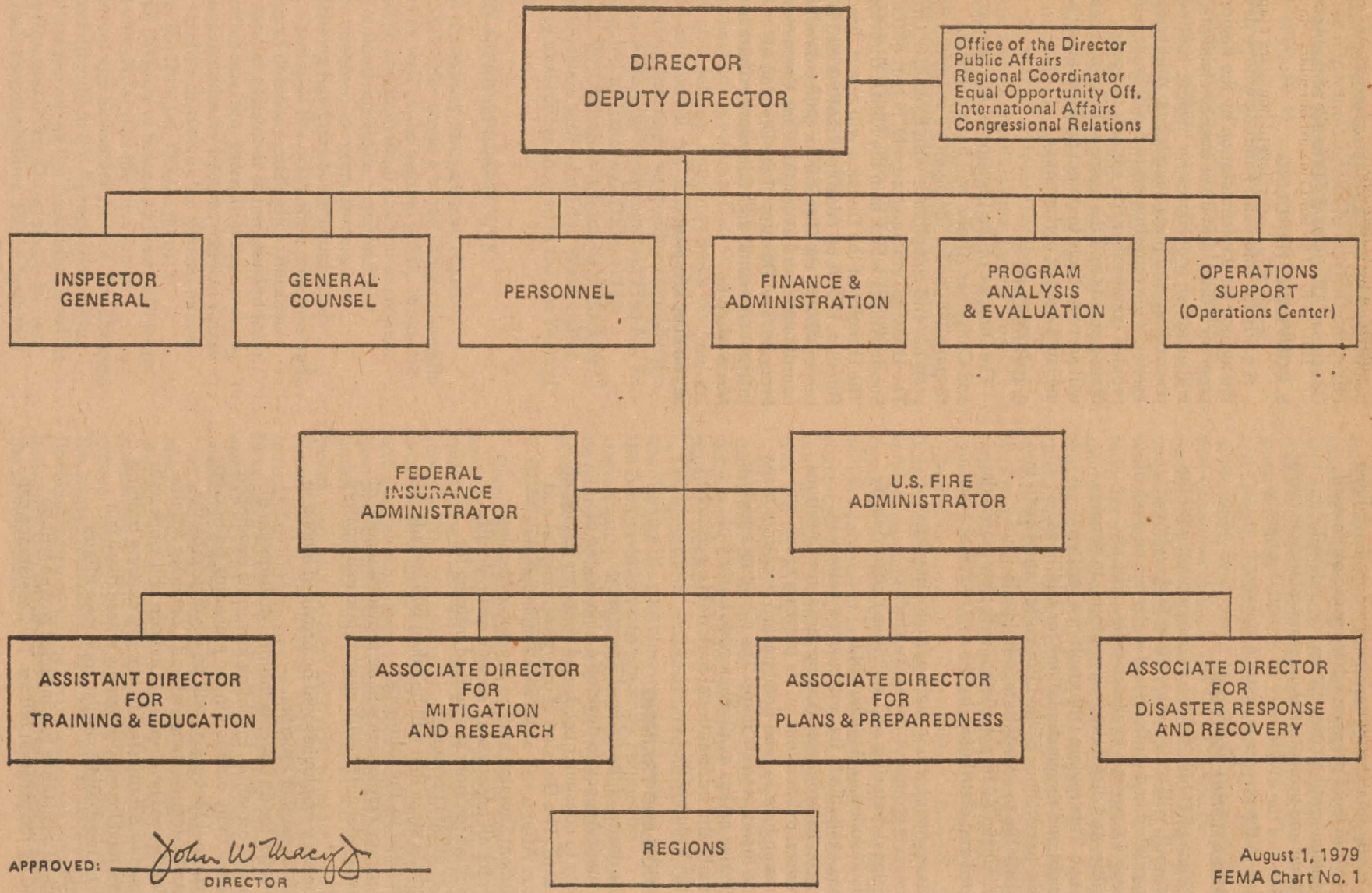
The Director of the Division of Intergovernmental and Consumer Affairs will have oversight responsibilities for the agency's consumer affairs program and compliance with Executive Order 12160. The Division, administratively, is part of the Office of Public Affairs which is in the FEMA Director's office. The Director of the Division will report directly to the Director, FEMA on consumer matters and is responsible to the Director for policy direction, coordination, and oversight of the Consumer Affairs Program. The Director of the Division of Intergovernmental and Consumer Affairs is a GS–15.

John W. Macy, Jr.,

Director.

BILLING CODE 6718-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY
HEADQUARTERS ORGANIZATION



APPROVED: John W Macy Jr
DIRECTOR

August 1, 1979
FEMA Chart No. 1

BILLING CODE 6718-01-C

Attachment I—FEMA Outreach Methods and Mechanisms

Pamphlets
Brochures
Booklets
Fact Sheets
Curriculum Guides
Teacher and Student Readings
Discussion Leader Guides
Counter Cards
Transit Cards
Posters
Coloring Books
Comic Books
Newspaper Articles
Magazine Articles
Bill Stuffers
TV Public Service Announcements
Radio Public Service Announcements
Announcer Copy Newsettes
Slide-Tape Presentations
Films
Film Strips
Press Releases
Speeches
Staff Appearances on Mass Media
Disaster Hotline
Periodic Mailings
Workshops
Seminars
Public Display of Information
Exhibits
Conferences
Conventions
Hearings
Agency Newsletter
Spotmaster Service
Free Loan of Audio-Visual Materials
Consumer Information Center Distribution of Materials

Attachment 2—National Flood Insurance Program Informational and Marketing Materials

Promotional Materials

"You Are Now Eligible to Buy Flood Insurance"
"Winter Flood Watch . . ."
"Though April Showers, May Come Your Way"
"Hurricane Warning"—English
"Hurricane Warning"—Spanish
"Welcome to the Community . . ."
"Announcing: Increased Flood Insurance Protection Now Available . . . "
"In the Event of a Flood"—English
"In the Event of a Flood"—Spanish
Marketing Kit @ $4.50 each (includes Print Ads, Radio Announcements and 2-color, 17" x 22" Poster)

Forms

Emergency Program Applications (HUD 1660.1)
Regular Program Applications (HUD 1660)
Cancellation Forms (HUD 1692)
Change Endorsement Forms (HUD 1633)
Notice of Loss Forms (HUD 1697)
Map Request Forms (HUD 685)
Supply Order Forms
Certificate of Proof of Purchase of Flood Insurance (HUD 1506)
Certificate of Redetermination (HUD 1632)

Informational Literature

Flood Insurance Manual
HUD Question and Answer Booklet
"How to Read a Flood Hazard Boundary Map"—English (HUD–FIA–149–1)
"How to Read a Flood Hazard Boundary Map"—Spanish (HUD–FIA–442)
"How to Read a Flood Insurance Rate Map" (HUD–FIA–252)
"How Flood Insurance Policies Are Renewed"

Rating Aid

Flood Insurance Rate Calculation Pads

BILLING CODE 6718-01-M

Form Approved:
OMB No. 1165?9021

APPENDIX 3

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?

   ☐ I am interested in it as an individual consumer.

   ☐ I am concerned about it, because I represent a public interest consumer group.

   ☐ I am concerned about it, because I represent a private company or organization.

2. After reading about our consumer program, do you think you understand how it works?

   ☐ Yes, it is clear and I understand it.

   ☐ Yes, I understand most of it.

   ☐ No. Much of it is not clear to me.

3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?

   ☐ Yes.

   ☐ No. Why?_____

4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?

   ☐ It seems adequate.

   ☐ It is not adequate. Why?_____

   _____

5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?

   ☐ Adequate.

   ☐ Not adequate. Why?_____

6. After reading our proposed consumer program, do you know whom or which office in _____ _____ (agency) to contact if you have:

   A complaint? ☐ Yes. ☐ No.

   A general question about the agency? ☐ Yes. ☐ No.

   A question about how to take part in agency proceedings? ☐ Yes. ☐ No.

7. Do you know who or which office in _____ (agency) speaks for the consumer? ☐ Yes. ☐ No. Any suggestions for improvement? _____

8. Do you have any suggestions for improving our consumer program?

   ☐ No.

   ☐ Yes, in the following areas:

   Consumer participation_____

   _____

   Informational materials_____

   _____

   Complaint handling_____

   _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

_____
(Your name)

_____
(Your address)

_____
(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

[FR Doc. 80-2990 Filed 2-1-80; 8:45 am]
BILLING CODE 6718-01-C

federal register

Monday
February 4, 1980

Part II—Section D

Department of Health, Education, and Welfare

Draft Consumer Program

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

Draft Response to Executive Order 12160

AGENCY: Department of Health, Education, and Welfare.

ACTION: Request for Comments on the Proposed Consumer Affairs Plan for the Department of Health and Human Services, Prepared in Response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs".

SUMMARY The proposed Consumer Affairs Plan for the new Department of Health and Human Services describes: the objectives of the Consumer Affairs Program, the organization of Consumer Affairs staff within the Department, special initiatives to meet the objectives of the program and generally how the Department will comply with the Executive Order.

DATE: Comments must be received by April 4, 1980.

ADDRESS: Comments should be addressed to: Assistant to the Secretary for Consumer Affairs, Office of the Secretary, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Anne H. Cohn, Special Assistant to the Secretary, Office of the Secretary, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201 (202) 245–9286.

Dated: January 25, 1980.

Patricia Roberts Harris,

Secretary.

INTRODUCTION

The Department of Health, Education, and Welfare has a longstanding and active concern for Consumer Affairs. In responding to Executive Order 12160 entitled "Providing for Enhancement and Coordination of Federal Consumer Programs", a Consumer Affairs Plan for the new Department of Health and Human Services has been developed with the goal of improving Consumer Affairs activities. Specifically, the objectives of the Plan are:

(1) To increase the Department's understanding of consumer concerns;

(2) To improve procedures for consumer participation in the development and review of rules, policies and programs;

(3) To provide mechanisms for Consumer Affairs staff to participate in the development and review of rules, policies, programs and legislation.

(4) To improve mechanisms for handling consumer complaints and concerns;

(5) To increase the public's awareness of the Department's programs;

(6) To improve the quality and distribution of consumer information materials; and

(7) To improve the coordination of Consumer Affairs activities within the Department.

This proposed Consumer Affairs Plan describes the Organization of Consumer Affairs within the Department to meet these objectives, special initiatives planned by the Department to meet these objectives and finally compliance with the requirements of the Executive Order to meet these objectives.

The Department welcomes comments from the consumer on the above objectives, and on the following plan to meet those objectives. All comments will be carefully analyzed as the Department completes this Consumer Affairs Plan.

ORGANIZATION OF CONSUMER AFFAIRS WITHIN THE DEPARTMENT TO MEET THE OBJECTIVES OF THE PLAN

As the basis for further development and implementation of the Department's Consumer Affairs Plan, the Secretary will identify Consumer Affairs staff within the Department as well as establish a Consumer Policy Council.

Consumer Affairs Staff

The Secretary will appoint an Assistant to the Secretary for Consumer Affairs, who will report directly to the Secretary. This Assistant will have as the sole responsibility policy direction for, and coordination and oversight of, the Department's consumer activities.

In addition to the Office of the Secretary, the Department of Health and Human Services will have four principal operating components. These include: The Public Health Service, the Office of Human Development Services, the Health Care Financing Administration and the Social Security Administration. The head of each of these principal operating components will appoint a Coordinator of Consumer Affairs. The Coordinator of Consumer Affairs will be responsible for policy direction for, and coordination and oversight of consumer activities within the operating component.

Each of the principal operating components of the Department, and the Office of the Secretary, contains a number of agencies or offices. For example, the Public Health Service includes the following agencies: the Center for Disease Control; the Food and Drug Administration; the Health Resources Administration; the Health Services Administration; the National Institutes of Health; and the Alcohol, Drug Abuse and Mental Health Administration. Each of the agencies or offices within the Department's principal operating components will have persons assigned to deal with Consumer Affairs and to be responsible for the coordination of program specific consumer activities. The number of people assigned will vary depending upon the nature and functions of the particular office or agency. Specific information on the number and functions of the Consumer Affairs staff within each agency or office will be included in the Department's final Consumer Affairs Plan.

Consumer Policy Council

In order to insure that Consumer Affairs activities within the Department are well coordinated, the Secretary will establish a Department-wide Consumer Policy Council. The Council, composed of the Consumer Affairs Coordinators from each of the Department's principal operating components and representatives from staff offices in the Office of the Secretary and certain agencies within the principal operating components, will be chaired by the Assistant to the Secretary for Consumer Affairs. The initial concern of the Consumer Policy Council will be reviewing public comments and completing the Department's Consumer Affairs Plan. Thereafter, the Council's basic function will be coordination of the implementation of the Consumer Affairs Plan.

SPECIAL INITIATIVES TO MEET THE OBJECTIVES OF THE PLAN

Recognizing that there are a number of ways in which the Department can improve its consumer programs, in order to meet the objectives of the Consumer Affairs Plan, the Secretary will instruct the Assistant to the Secretary for Consumer Affairs and the Consumer Policy Council to coordinate a number of special consumer initiatives. These initiatives, described briefly below, will be developed more fully in the final Consumer Affairs Plan, after public comment has been received.

(1) "Getting to Know HHS" Regional Conferences

In the spring of 1980, simultaneously with the creation of the new Department of Education, the Department of Health and Human Services will be established. In the interest of acquainting the public with the purpose and content of its programs, the Department of Health and Human Services plans to conduct "Getting to Know HHS" Conferences in each of the ten HHS regions of the country. The Conferences, which will be open to users of HHS programs and the general public, will seek to acquaint participants with HHS programs while providing the public with an opportunity to discuss and comment on these programs.

(2) Improved Distribution of Consumer Materials

The Department recognizes that distribution methods for consumer information materials can be improved. The Department produces hundreds of publications and documents of interest to consumers. These materials do not always reach the audiences for whom they are intended. As part of the Department's Consumer Affairs Program, a new distribution strategy will be developed which will among other things identify local outlets throughout the country which can become the basis for material dissemination.

(3) Consumer Referral Hotlines

The Department houses many different agencies and programs. It is often difficult for a member of the public to know who to call with a question or complaint about any particular program. The Department, as part of the Consumer Affairs Program, will make sure that there exists a well publicized, central telephone number in each region of the country which will serve as an Information and Referral Service for the general public.

(4) Outreach Through Consumer Polls

Currently the Department has no specific mechanisms in place to determine consumer attitudes toward the Department's programs and the general issues they are designed to address. Changes in existing programs or the development of new policy initiatives are often formatted and decided without the benefit of knowing public opinion on the specific issues in question. The Department is interested in assessing the value of conducting systematic surveys of consumer opinion as one strategy for introducing the consumer viewpoint into decision making. To this end, as part of the Consumer Affairs Program, the Department plans to conduct several consumer polls on major issue areas, and will assess the ability of the Department to use the resulting information in policy development and review.

(5) Outreach Through Constituency Groups

The Department recognizes that there is a large number of organizations across the country involved or interested in HHS programs. These organizations represent for the Department a point of access to the variety of consumer interests. While the Department has worked closely with these organizations in the past, as part of the Consumer Affairs Program, a more active program of activities, jointly sponsored by HHS and constituency groups, which provide the membership of these organizations with information about the new Department of Health and Human Services will be designed. This enhanced outreach program will have two objectives: first, to educate the consumer about the Department's programs and second to disseminate information about how the consumer can participate in the review of the Department's programs and policies.

(6) Consumer Education Campaigns

The Department annually conducts over thirty different health-related public information campaigns. Each of these campaigns is produced independently by separate components of the Department. Each competes with the other for the limited public service time available on radio and television. Many are aimed at essentially the same audiences. As part of the Consumer Affairs Program, the Department will develop a strategy for better coordinating these public information campaigns, assuring that more unified and valuable health messages are produced for the American public.

(7) Petitions for Rulemaking

The Department does not currently have specific procedures by which members of the public may petition for the issuance, amendment or repeal of

Department rules. There is no uniform policy regarding where requests should be filed, who in the Department is responsible for determining the necessary action, and how such requests must be considered. Because of an interest in expanding opportunities for the public to influence policy decisions, the Department intends to improve its process for handling petitions. Uniform procedures for rulemaking petitions are currently under consideration. As part of the Consumer Affairs Program, the Department will issue a Notice of Proposed Rulemaking which would establish these uniform procedures.

(8) Consumer Reimbursement Demonstrations

Prohibitive costs are often cited as a barrier to the meaningful participation of the public in Federal agency decision making. Thus, the interests of consumers may go unrepresented. In response to this concern, the Department, through the Food and Drug Administration, has established a pilot program of public participation funding. As part of the Consumer Affairs Program, the Department intends to explore the possibility of expanding this demonstration program to other policy areas in order to more fully assess the need for and feasibility of public participation funding. Greater detail on this Demonstration will be provided in the final Consumer Affairs Plan.

COMPLIANCE WITH THE EXECUTIVE ORDER TO MEET THE OBJECTIVES OF THE PLAN

In addition to these eight special initiatives, the Department will take a number of other steps to comply with the Executive Order and to meet the objectives of the Plan.

(1) Consumer Affairs Perspective

The Executive order requires agencies to have identifiable, accessible professional staffs of Consumer Affairs personnel authorized to participate in the development and review of all agency rules, policies, programs and legislation.

There are many ways in which the Consumer Affairs staff will participate in the development and review of agency policy. However, in order to guarantee such participation, the Secretary will establish a new Department policy. Currently, before decisions on proposed rules, policies, programs and legislation are made by officials in the Department, they are reviewed by relevant staff. Staff comments and recommendations are forwarded to the official. As a new policy, Consumer Affairs staff in the principal operating components and the Office of the Secretary will be included in this clearance process. Thus, the Assistant to the Secretary for Consumer Affairs and the Coordinators of Consumer Affairs will have a clear opportunity to comment on the potential impact on consumers of proposed Departmental policies.

(2) Consumer Participation

The Executive order requires that agencies take steps to insure that individual consumers and consumer organizations are able to participate in the development of agency rules, policies and programs. The Department currently encourages consumer input in the review of agency rules, policies and programs in a variety of ways. However, the approaches used throughout the Department are not consistent and are at times inadequate. The Consumer Affairs staff in the Department will be given primary responsibility for making sure that consumers have adequate opportunities to participate in the development and review of Department policy. To this end, the Department's Consumer Policy Council will be instructed by the Secretary to analyze how the consumer perspective is now sought, what barriers to participation currently exist and how consumer participation can be improved. Preliminary findings of the Consumer Policy Council will be included in the Department's final Consumer Affairs Plan.

Several new initiatives, described above, will help improve consumer participation such as the extended use of constituency groups for outreach; the Consumer Reimbursement Demonstrations and new Departmental Procedures for Petitions for Rulemaking.

(3) Information Materials

The Executive order requires that agencies must produce and distribute informational materials useful to consumers. The Department currently prepares and distributes hundreds of different publications for use by professionals and the general public. All such informational materials are reviewed by the Office of the Assistant Secretary for Public Affairs prior to their release. The Office of the Assistant Secretary for Public Affairs will continue to improve mechanisms of quality control over Departmental publications as part of the Consumer Affairs Program. Beyond the question of quality and utility of information materials, the area requiring the most significant improvement is the distribution to consumers of those informational materials. Two special initiatives, described above, are planned to correct this problem: the development of a new distribution plan for HHS materials and the Consumer Education Campaigns.

(4) Education and Training

The Executive order requires that agencies must educate and train their staffs in the principles underlying the Executive Order, and in the skills needed to implement the Order effectively. The Consumer Affairs staff will take principal responsibility in educating Department personnel about the objectives of the Consumers Affairs Plan and the mechanisms by which it will be implemented. The Plan itself will be widely distributed, and Department personnel will be briefed on these aspects of the Plan which directly effect their activities.

The special initiative, described above, creating a Consumer Reimbursement Demonstration, will allow the Department to test mechanisms for providing assistance to consumers.

(5) Complaint Handling

The Executive order requires that agencies establish systematic procedures for the efficient handling of consumer complaints. Consumer complaints must be taken into account in the formulation of agency policy. The Department currently has a variety of mechanisms for receiving and responding to consumer complaints. There is a need, however, to develop a more consistent and useful structure for receiving and analyzing such complaints.

Thus, the Secretary will request that the Inspector General's Office conduct an assessment of complaint handling procedures in the Department and recommend mechanisms to improve these procedures. The Secretary will also establish procedures for compiling information on the number and types of complaints received by the Department on a quarterly and annual basis so that such information can be utilized in agency decision-making. The Department's final Consumer Affairs Plan will specify existing complaint handling mechanisms, the methods to be used to analyze these methods and the mechanisms by which the Department will inventory consumer complaints.

Several new initiatives, described earlier, will also enhance consumer complaint handling such as the Consumer Referral Hotlines which will provide consumers with a single number to call to find out who in the Department particular complaints ought to be lodged with; and the consumer surveys which will allow direct polling of consumer concerns.

(6) Oversight

The Executive order requires each agency to designate a senior-level official to coordinate the agency's consumer program. The designated official must report directly to the head of the agency. The official's consumer oversight responsibility must be the only responsibility exercised by this individual. The Assistant to the Secretary for Consumer Affairs will fulfill this requirement, assisted by the Coordinators of Consumer Affairs and the Departmental Consumer Policy Council. The Assistant to the Secretary for Consumer Affairs will be the Department's representative on the Federal Consumer Affairs Council.

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federal register

Monday
February 4, 1980

Part II—Section E

National Credit Union Administration

Draft Consumer Program

NATIONAL CREDIT UNION ADMINISTRATION

AGENCY: National Credit Union Administration.

ACTION: Policy Statement 79–10: Notice of Proposed Consumer Program.

SUMMARY: In accordance with Executive Order 12160, NCUA sets forth a draft of its Consumer Program which outlines the procedures for dealing with its consumer affairs perspective, consumer participation, information materials, education and training, complaint handling and general oversight.

DATES: Comments must be received by April 4, 1980.

ADDRESS: Send comments to Office of Consumer Affairs, National Credit Union Administration, 1776 G, Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Linda M. Cohen, Director, Office of Consumer Affairs at the above address or telephone (202) 357–1080.

SUPPLEMENTAL INFORMATION: Executive Order 12160 requires executive agencies to review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed in agency operations. The National Credit Union Administration (NCUA) is an independent regulatory agency not specifically subject to requirements of the Order. Nevertheless, NCUA intends to fully comply with this order. Accordingly, NCUA has reviewed its consumer program. The following proposed program, which contains revisions to implement the executive order, is the result of that review.

By the National Credit Union Administration Board, on December 21, 1979.

Rosemary Brady,

Secretary of the Board

Accordingly, the Board sets forth its proposed consumer program to implement Executive Order 12160.

CONSUMER AFFAIRS PERSPECTIVE

The present Division of Consumer Affairs in the Office of Examination and Insurance will become the Office of Consumer Affairs. The Office will be headed by a Director who will report directly to the NCUA Board.

The Office will initially consist of a Director, Deputy Director, six Consumer Affairs Analysts and three clerical personnel. Each staff member has special expertise in consumer credit laws and financial institution experience. In addition to this Washington, D.C. staff, each Regional Office of the National Credit Union Administration has two Consumer Affairs Analysts and technical support. These persons will implement the agency's consumer affairs program under the direct supervision of the Regional Director, but will look to the Office of Consumer Affairs for policy direction. Consumer Affairs activities will be funded separately in NCUA's budget as an Office.

The Office of Consumer Affairs will assume the responsibilities listed under section 1–1091(a) of Executive Order 12160. The staff will participate in the development and review of all agency rules, policies, programs and legislation which have potential consumer impact. Other responsibilities will continue to include consumer law enforcement, consumer education, consumer participation, complaint handling, unfair practices, participating in the training of credit union officials in cooperation with credit union trade organizations, and working with other financial institution regulators in the development of interagency consumer law enforcement policy, examination procedures, and examiner training.

In addition, NCUA plans to use special compliance examiners to examine credit unions for compliance with consumer laws and regulations. When this program is implemented, a primary responsibility of the Office of Consumer Affairs will be to develop and monitor comprehensive procedures for these separate consumer compliance examinations. The Office will provide policy direction and training for the agency's compliance examiners. In addition, the Office will provide general education on consumer laws and regulations to other NCUA examiners and staff.

The Office of Consumer Affairs will have the only staff performing consumer affairs policy functions covered under the Order. Regional office staff will implement policy formulated by the Office.

The Director will become aware of the development of all proposed NCUA rules, policies and programs through regular attendance at agency Executive staff meetings and planning conferences and through meetings with key agency officials.

The Office of Consumer Affairs will continue to prepare testimony in coordination with the Office of the General Counsel for Board members when they are called upon to testify or offer comments on proposed consumer legislation or regulations before Congress, the Federal Reserve Board or the Federal Trade Commission. In addition, it will review formal comments prepared by other agency components to assure that they address the consumer impact of the proposed action.

The Office will also comment on the consumer impact of proposed NCUA rules and regulations before they are published in the Federal Register and determine what type of consumer participation may be appropriate. (See below.) In addition, all proposed general policies and programs will be reviewed by the Office for consumer impact before they are submitted to the Board and a recommendation will be made by the Office as to whether consumer participation is appropriate. In any case where the policy or program is found to have consumer impact, the Office will offer comment to the Board concerning such impact, even if consumer participation is deemed inappropriate.

CONSUMER PARTICIPATION

Credit unions are cooperative institutions. NCUA's consumera are the owners of the credit union. Persons who are members of credit unions are, and must be, united by a common bond. This common bond, which may be the same employer, members of the same organization, or inhabitants of a defined community, is

called the field of membership. In order to be eligible to be a member, an individual must fall within the credit union's field of membership. Thus, all rules, regulations, policies and programs affecting federal credit unions have potential consumer impact.

At the same time, certain decisions are made by NCUA which do not have impact on the consumer in the traditional sense. One example would be the removal of a credit union official for misconduct. In such cases, where the consumer impact of an NCUA decision goes solely to the consumer as part owner of the credit union, consumer participation will most likely not be appropriate.

NCUA also makes decisions concerning the safety and soundness of credit unions. These types of decisions are based on technical financial analysis. Questions of liquidity and eligibility for financial assistance affect members as consumers of credit union services. Nevertheless, such decisions are generally imappropriate for consumer participation because of the complexities involved and the necessity of keeping the financial condition of credit unions confidential.

Further, NCUA believes consumer participation is appropriate only in *general policy making*. Decisions on how to implement policy with regard to a specific credit union cannot benefit from consumer participation. Consumer participation in such situations would in addition severely impede the effective workings of the agency.

Where general policy decisions are determined by the NCUA Board (on recommendation from the Office of Consumer Affairs) to impact significantly on credit union members as consumers of credit union services, consume participation will occur. The Office will recommend that type of consumer participation which it considers most appropriate. This decision will be based on the following factors:

—degree of consumer impact
—urgency of the decision
—degree of controversy involved in the issue

The Office of Consumer Affairs will be responsible for implementing the agency's consumer participation responsibilities. The avenues of consumer participation will be written comments and/or oral hearings in the Washington office attended by one or more members of the Board. The type of consumer participation appropriate to the issue involved will be determined by the Office of Consumer Affairs. Guidelines will be developed to assist in making this decision. Because of the relatively small size of NCUA, any oral hearings will be held in Washington. NCUA will consider funding consumer groups and individual credit union members when appropriate to attend the hearings held in Washington.

Notices concerning hearings will be sent to all federal credit unions to be posted for the information of credit union officials and members. When approrpriate, notices will also be placed in the *NCUA Digest*. Organized consumer groups, not made up of credit union members exclusively, will be notified through special mailings.

INFORMATIONAL MATERIALS

Credit union members are generally aware of the presence and function of NCUA. They are made aware that NCUA insures credit union deposits through the NCUA logo, which is required to be displayed at credit union offices. They are aware of the agency's responsibility to enforce fair lending laws through the Fair Housing poster which each credit union is required to display and the notice that the credit union is required by the Equal Opportunity Act to send out when adverse action is taken on an application. With regard to marketplace information, we distribute general informational materials prepared by other, larger financial institution regulatory agencies. We believe these materials meet the needs of credit union members and disseminating them is, in our opinion, an efficient use of government resources.

In addition, we lend to credit unions on request an NCUA slide show on Regulation B. We intend to develop slide presentations on other consumer laws that we will also loan to credit unions on request. We will continue the present practice of placing educational material on consumer law developments in the *NCUA Digest*.

Another of our consumer education efforts has been duplication and dissemination of a "know your credit rights" card for women. We are also participating in an interagency effort to develop lesson plan modules on consumer affairs for use in high schools, and we are considering several other educational efforts designed to assist credit union consumers.

EDUCATION AND TRAINING

The Office of Consumer Affairs will be responsible for educating staff members about the Order. The Order and the agency's draft program was scheduled for presentation to the NCUA Board on December 6, 1979. The agency will announce the creation of the Office of Consumer Affairs in a memorandum to all personnel.

The Director of the Office of Consumer Affairs will be responsible for assuring that all Office staff receive appropriate training. At present, all Office staff receive extensive training and possess a high degree of expertise in the consumer laws and regulations. Such training opportunities will continue to be made available.

The Office will also be responsible for the in-depth training which will be provided to specialized consumer examiners. NCUA is currently participating with the Federal Reserve Board, Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board in the development of an interagency school for the training of consumer examiners. This school will be our primary training vehicle for consumer examiners. The Office of Consumer Affairs will also furnish regular informational updates to these examiners.

The Office of Consumer Affairs will continue to furnish technical information and comments on consumer matters to consumer groups, other agencies and Congress whenever such assistance is requested.

COMPLAINT HANDLING

All complainants who telephone in their complaints or appear in person are requested to put their complaints into writing. All written complaints are assigned a number, classified by type (e.g. discrimination, debt collection practices), and logged into our computer information system, designed to facilitate tracking of complaints and compilation of data on complaint type and resolution.

Periodically, printouts of complaints by topical categories are made to assist in the analysis of patterns of issues raised. This data and analysis will continue to be used in consumer affairs policy making. Reports will be furnished at regular intervals to NCUA Board members concerning the pattern of complaints and the policy implications of the complaints received.

All complaints are forwarded to the appropriate regional office for investigation and analysis. If the complaints are forwarded by a member of Congress or by the Office of the President, the final responses are prepared in the Washington Office. Most other complaints are responded to directly by the Regional Office. A Consumer Affairs Analyst in the Office of Consumer Affairs specializing in the complaint process will be responsible for ensuring that complaints are investigated and responded to properly.

OVERSIGHT

The official designated to oversee the agency's consumer affairs effort will be the Director of the Office of Consumer Affairs. The Director will report directly to the NCUA Board. As head of the Office of Consumer Affairs, the Director will manage all activities within the Office, and the Office will have responsibility for all activities under the Order. The Director will be on the same level as the heads of other NCUA offices and will work with them directly. The Director will attend all senior level executive meetings and agency planning conferences.

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federal register

Monday
February 4, 1980

Part II—Section F

Department of Defense

Draft Consumer Program

DEPARTMENT OF DEFENSE

AGENCY: Department of Defense.

ACTION: Draft Consumer Program.

DATE: Comments must be received by April 4, 1980.

ADDRESS: Comments should be addressed to Honorable Robert B. Pirie, Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), The Pentagon, Room 3E808, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Schoenberger, (202) 697–9525.

I. CONSUMER AFFAIRS PERSPECTIVE

Objective

The central objective of the Department of Defense in consumer affairs is to ensure that the needs and interests of consumers are adequately considered and addressed in the formulation of Defense policies. Participation by consumers is fundamental to this aim. Although the Department and each of its components have programs in being, each of these programs will be upgraded with the objective being active advocacy on the part of all American consumers as well as the Department's military and civilian employees. Emphasis will be focused on the interests of the individual citizen as well as organized state and local consumer protection groups. Thus, the upgraded programs will be designed to increase overall public awareness of planned defense activities, changes in defense policies, and other actions planned or being taken by the Department insofar as the needs of national security will permit. They will provide a direct means of communicating consumer response to the Department and a responsive return channel. Additionally, data on consumer affairs will be collected by each Military Department and Defense Agency and evaluated annually as part of the ongoing effort to upgrade their programs and increase the responsiveness of the Department of Defense to the needs of its consumers.

Staff Location

The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is responsible for and will be Advisor to the Secretary of Defense for consumer affairs.

Size and Resources

As Advisor, the Assistant Secretary for Manpower, Reserve Affairs and Logistics, will be assisted by the Under Secretaries and the other Assistant Secretaries on a regular basis and as needed to fulfill these functions under the Executive Order. The Consumer Affairs Advisor will have overall responsibility for coordinating consumer affairs issues arising within any component of the Department of Defense. The Advisor will participate in the development and review of all Departmental policies, programs, legislation and rules on consumer related issues. To ensure that the Advisor will be kept fully abreast of consumer activities he will be assisted by the Director of Economic Adjustment, DASD (Energy, Environment and Safety), DASD (Supply, Maintenance, Transportation and Services), DASD (Installations and Housing), DASD (Program Management), DASD (Requirements, Resources, and Analysis), DASD (Equal Opportunity), DASD (Civilian Personnel Policy), DASD (Military Personnel Policy), DASD (Reserve Affairs) and the Reserve Forces Policy and Armed Forces Chaplains Boards. They will be responsible for keeping the Advisor informed on all consumer-related issues in their areas of authority. In addition, they will systematically report to the Advisor on a semi-annual basis the status of consumer issues as well as those they anticipate may develop in the future.

Relationship With Military Departments and Defense Agencies

Each Military Department and Defense Agency is responsible for developing its own consumer affairs program consistent with the overall program of the Secretary of Defense. They will continue to have primary responsibility for addressing consumer concerns related to the Military Department or Agency's activities. To implement their plans and to coordinate consumer related activities within their Department or Agency, they will establish a Consumer Affairs Committee. The Consumer Affairs Committee shall consist of one person designated by the head of each major organizational directorate of the Department or Agency. Such designee will serve as "Consumer Affairs Representative" and shall be the person with responsibility for handling public inquiries and complaints and/or programs with significant public involvement and/or impact.

Participation in Development and Review of Department or Agency Rules, Policies, Programs, and Legislation

1. Notification Procedure

The Consumer Affairs Representative will be notified whenever a Directorate of the Department or Agency is considering a new policy or program initiative that may have impact on consumers. The Representative shall also initiate communications at all levels within the Department or Agency to keep informed about all rules, policies, programs and legislation under consideration.

2. Stage at Which Participation Begins

The Representative may participate at any stage of decisionmaking to the extend permitted by law to facilitate consideration of consumer concerns.

3. Methods of Participation

The Representative may participate in whatever manner is deemed appropriate.

II. CONSUMER PARTICIPATION

General

The Secretary of Defense will issue a statement supporting direct consumer participation in early policy and program development in appropriate matters. He will direct that each Military Department and Defense Agency, and each of his staff elements, consider the viewpoint of consumers in matters of consumer concern. To implement this goal, the Advisor shall consult with the head of each Military Department, Defense Agency, and staff element to consider matters appropriate for consumer participation. The Advisor and the head of each Military Department and Defense Agency shall devise and implement a plan for early and meaningful consumer participation in such matters. Should the Advisor and the Department or Agency head disagree on the appropriateness of consumer participation or of a particular form of consumer participation in a given matter, the Secretary of Defense will resolve the question. Consumer participation shall begin in designated matters at the policy development stage or at the rule or legislative drafting stage.

Avenues of Participation

1. The Secretary of Defense will direct all Military Departments, Defense Agencies, and staff elements to give full consideration in the course of decisionmaking to concerns or consumers.

2. The Department will maintain a calendar of all matters issued for public comment with the appropriate closing date and, through its Public Affairs Office, inform interested consumer groups that such matters are pending for public comment. The Advisor shall compile a list of persons interested in notification and they shall be placed on the appropriate mailing list.

3. A public forum for the direct expression of consumer views on Department of Defense programs and policies will be provided for all major defense construction and base realignments or closures in accordance with statutes governing the filing of Environmental Impact Statements and, as applicable, in accordance with the Coastal Zone Management Act and the Intergovernment Coordination Act.

4. Unless specifically exempted in writing by the Secretary of Defense or the head of a Military Department or Defense Agency, a consumer representative body will be established for each commissary store, military exchange, military or civilian employee recreation fund, open mess, membership association, common support services nonappropriated fund instrumentality (NAFI), and supplemental mission services NAFI. Each consumer representative body will be constituted to ensure that it is repsonsive to the needs of the personnel served. Functions will include—but not be limited to—advising management on product selection; adequacy of service; hours of operation; consumer education programs; responsiveness to patron requirements, suggestions, or complaints; and consumer oversight and evaluation.

5. The Advisor may recommend to the Military Departments and Defense Agencies or to the Secretary of Defense other appropriate mechanisms and opportunities for consumer participation.

6. The means by which the DoD consumer participates in the present decision process will also continue:

(a) The Department provides opportunities for consumers to express their views in the field and at headquarters levels as well as at serveral points in the Department decision making process. In addition, the Inspector General organizations will continue to function as the primary, direct means of communication between the consumer and the headquarters commander.

(b) Civil Works Program.

(1) The Secretary of the Army is responsible for the Civil Works Program as administered by the U.S. Corps of Engineers. The primary purpose of the Civil Works Program is to provide benefits to the American public by the conservation and development of the Nation's water resources. The Chief of Engineers and principal managers throughout the program participate in natural resources and public policy conferences to keep abreast with plans and programs of industry, nonprofit organizations and consumer groups. When letters to the Corps indicate an issue of significant national consumer interest, the Office of the Chief of Engineers holds hearings to solicit consumer input to the policy formulation process. When an area of continuing consumer concern is identified, an advisory board is established to obtain a continuing source of input from consumer representatives. One such board is the Chief of Engineers Environmental Advisory Board, composed of members representing conservation organizations, the news media, and other consumer interests. The boards aid the Chief of Engineers in defining and meeting the Corps' obligations and responsibilities in environmental matters and in promoting mutual understanding.

(2) At local district offices there is a more visible consumer input to the Civil Works Program. Consumer input is solicited by a variety of mechanisms.

(i) Public meetings are conducted by the Corps at critical decision-making points in the planning process.

Meetings are held to obtain input from the consumer regarding the problems and need for a study; to obtain consumer reactions to proposed alternative solutions; and to obtain consumer reaction on the plan.

(ii) The following mechanisms are established to ensure that input from consumers are adequately solicited and evaluated:

—A consumer involvement program is developed at the beginning of a study;

—A summary of consumer involvement program implementation must be incorporated in planning reports;

—A requirement that testimony presented and discussions held at public meetings, are recorded verbatim and reviewed in the evaluation and decision-making process by a district office and higher echelons.

(iii) Mailing lists and public notices are maintained to facilitate this consumer education process. In addition, there is wide distribution of publications. For example, a water resource booklet, which includes information on all Corps activities in a State, is prepared for each State. Pamphlets on all of its reservoir recreation areas are pubished. Publications are also available on special subjects of high consumer interest. Consumers are also provided with flood-plain and public safety information and training sessions are conducted for flood emergencies. A catalog of information films on water resources and related subjects is widely distributed and the films are available for loan upon request. And each Corps office has a speakers bureau available to requesting consumer groups.

(c) Environmental Impact and Economic Adjustment Assistance.

(1) Under the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended, and as implemented by DoD Directive 6050.1, each proposed action by the Department of Defense must be assessed to ascertain its enviornmental impact. In this assessment process, the direct impact on the natural environment is considered, as well as secondary impacts, such as traffic patterns, employment and housing. If the proposed action significantly impacts the quality of human environment or if it is anticipated to be environmentally controversial, then an Environmental Impact Statement (EIS) is prepared, and public, Federal, State and local comments on the proposal solicited. The substantive comments received are addressed and incorporated into a final impact statement and filed with the Council on Enviornmental Quality (CEQ). No administrative action on the proposal is taken for 30 days after the EIS is filed. This provides the Environmental Protection Agency an opportunity to fulfill its statutory requirements under Section 309 of the Clean Air Act of 1970. Notice of the filing of both the draft and the final EIS are noted in the **Federal Register.** The final impact statement accompanies the proposal through the Military Departments or Agencies review process so that the decision-maker can give due consideration to the environmental impact concurrent with technical, operational, economic and other factors in making the final decision.

(2) Whether or not an EIS is prepared, if individuals and local communities are adversely affected by a DoD decision or action, assistance is provided under the Economic Adjustment Program, DoD Directive 5410.12. This assistance program is carried out under the auspices of the President's Economic Adjustment Committee which is chaired by the Secretary of Defense. The Committee coordinates the use of available Federal resources to help impacted communities generate new jobs to replace those lost.

(i) Employment Impact

The effect on the area's manpower requires the Committee to give major emphasis to the needs of the affected employees in transferring, retiring, retraining or obtaining placement assistance with the private sector. The Defense Priority Placement Program, DoD Directive 1400.20 provides maximum placement assistance prior to and subsequent to reduction-in-force separations.

(ii) Housing Impact

—The Homeowners Assistance Program, DoD Directive 5100.54 assists both military and civilian employee homeowners by reducing loses incident to the disposal of their homes. When the local housing market is seriously affected by closure cutbacks at military installations, employees are assisted in disposing of their residences at a small discount from fair-maket value.

—In addition to the assistance to individual homeowners, the Committee works closely with the community and its business leaders on the orderly acquisition and disposal of surplus military housing at former military installations. Close coordination between Federal and local authorities is required to assure that the disposal of this housing does not seriously disrupt the local housing market.

(iii) Property Impact

—The Committee assists communities in the conversion of former DoD bases to meet public needs and job-generating uses such as industrial, educational, health and transportation. Disposition of this property requires cooperation with the citizenry and public bodies in each of the impacted areas. The focus of the Committee is to work with local leaders and citizens on developing a base-use plan, arranging interim use of these facilities, and facilitating final conveyance of this property to the community.

(iv) School Impact

—The Committee works with area educators to alleviate the impact caused by the relocation of personnel and the loss of Federal education assistance funds.

(v) Small Business Impact

—Many small business firms are affected by these realignment actions as a result of their subcontracts with the base or with a major prime contractor. These include firms in the real estate, service, construction, and financial sectors. The assistance provided through the Committee to these enterprises is directed at each of the individual firms and the peculiar problems these firms face in diversifying their product lines and service orientation.

(iv) Community Impact

—A major realignment action often highlights the need to address specific community needs that may be met through the acquisition of surplus base property. Dependent upon the size and character of the base, various parts may be utilized for public purposes at much less cost than constructing new facilities.

(d) Dissemination of Scientific and Technical Information.

—The Department of Defense conducts a broad program of research, development, test and evaluation. The results have potential for use by the private sector, other Government agencies and State and local governments in the solution of critical domestic problems. This (unclassified) information is made available to the public through the Department of Commerce clearing-house, the National Technical Information Service (NTIS), which announces and disseminates this information to the general public.

(e) Consumers of Goods and Service Offered in DoD Activities.

(1) Inherent in the military establishment are numerous procedures at the installation level which permit individuals to initiate views regarding their interest as consumers of goods or services offered by DoD-sponsored activities. It is here, in the military community, that likes and dislikes are first made known, corrective action taken, or referral to higher levels accomplished. The accessibility of local assistance, however, does not preclude the use of other available channels of communications.

(2) Consumer suggestions and comments are analyzed and passed from advisory groups and staff elements to the appropriate decision level. These suggestions are received from:

—Written correspondence
—Direct contact by consumers with local responsible officials
—Consumer participation conferences
—Consumer advisory groups
—Inspectors General interview and complaint systems
—Sample surveys
—Military community service organizations
—In-store interviews
—Patron purchase panels
—Suggestion boxes
—Customer "Want" slips

(3) Communications to Consumers on Issues and Decisions. Consumers are made aware of issues and pending final decisions which affect them through publication in the **Federal Register**, internally disseminated information, service press, local press, and legislative releases. Policies are promulgated by such means as directives, regulations and instructions.

(4) Feedback to Consumers About Their Comments. Written comments from consumers receive a direct reply. Responsible local officials respond to individual or group consumer suggestions. Moreover, local commanders, or their representatives, participate in on-base consumer group activities, such as personnel advisory councils and clubs, to discuss the development and status of consumer suggestions of general interest.

(5) Consumer Education. There is a continuing effort to educate consumers. Examples include commanders' calls, telephone and installation newspapers, "hotlines," books, pamphlets, fact sheets, films, and Armed Forces Radio and Television programs overseas where topics such as "best buys, open dating, and unit pricing" are discussed.

III. INFORMATIONAL MATERIALS

Agency Information Services

1. Usefulness of Current Material

The Department has publications available that provide information about the Department or areas of public concern.

(a) DoD Directive 6050.1, "Environmental Effects in the United States of DoD Actions," July 30, 1979.

(b) DoD Directive 5410.12, "Economic Adjustment Assistance to Defense-Impacted Communities," April 21, 1973.

(c) DoD Directive 1400.20, "DoD Program for Stability of Civilian Employment," August 13, 1971.

(d) DoD Directive 5100.54, "Homeowners Assistance Program." December 29, 1967.

(e) DoD Directive 5400.9, "Publication of Proposed and Adopted Regulations Affecting the Public," December 23, 1974.

(f) DoD Directive 5400.7 "Availability to the Public of Department of Defense Information," February 14, 1975.

(g) DoD Directive 1344.7, "Personal Commercial Affairs," July 1, 1969 governs the conduct of private solicitation on the Department's installations and prescribes the intent of the Department to safeguard and promote the welfare and interests of its personnel as consumers.

(h) DoD Directive 1344.1, "Solicitation and Sale of Insurance on Department of Defense Installations," August 31, 1977 establishes standards of conduct in soliciting and selling insurance on the Department's installations.

(i) DoD Directive 1344.9, "Indebtedness of Military Personnel," May 7, 1979 sets forth procedures for

processing claims of indebtedness against members of the Military Services.

(j) DoD Directive 1330.9, "Armed Services Exchange Regulations," October 29, 1971, establishes patron eligiblity and presicribes authorized goods and services.

(k) DoD Directive 1330.17, "Armed Services Commissary Store Regulations," May 4, 1978 establishes patron eligibility and prescribes authorized goods and services.

2. Plans for Improvement

The Advisor shall review the Department's informational materials and make recommendations for improvement.

The Advisor shall consult appropriate governmental entities, including the General Services Administration Consumer Information Center/Federal Information Center, regarding methods for achieving optimum distribution of the Department's informational materials.

The Department will consider distribution of the Consumer's Resource Handbook within the Department to provide guidance on handling public inquiries and complaints.

3. Officials Responsible for Consumer Information Program

The Advisor, together with his/her permanent designees, shall review current informational materials and shall provide advice regarding the preparation of new materials.

Information on Agenda of Public Meetings

Explanatory materials for consumer meetings of the Department shall be prepared by the unit involved with appropriate assistance from the Advisor. The materials shall describe general topics of concern as well as the date, time, place and format for the meeting. They shall invite suggestions for additional topics to be addressed at the meeting. These materials shall be made available through the Public Affairs Office and shall be mailed to appropriate organizations in the area in which the meeting is to take place.

IV. EDUCATION AND TRAINING

Areas in Which Training Provided

Training shall be provided in complaint handling and in other matters the Advisor concludes would help implement the plan.

Method of Education

The Secretary of Defense will advise each Department and Agency of the existence of the final consumer plan and of their responsibilities. The Advisor to the Secretary of Defense shall respond to inquiries about the plan and shall assist the Departments and Agencies in their implementation.

Specialized Training for Consumer Affairs Personnel

Departments and Agencies shall train individuals in complaint handling and other consumer affairs responsibilities. The training shall cover the major consumer resources of the Department and other government agencies, courtesy and attitude in responding to mail and telephoned inquiries, guidelines for appropriate responses to inquiries, and disclosure policies regarding pending Departmental matters.

The Departments and Agencies will sponsor the attendance of consumer program representatives and others at training sessions provided by other agencies as may be appropriate.

V. COMPLAINT HANDLING

Agency Interest in and Methods for Filing

The Department's Public Affairs Office, after consultation with the Advisor, shall issue press releases containing information to educate consumers on the Department's mission and to invite information, comment and complaints. The releases shall specify the offices within the Department to which written comments, reports and complaints should be directed.

All Department of Defense Informational publications shall be reviewed by the Advisor to consider whether revisions are appropriate, to indicate Departmental receptivity to comments and complaints, and to designate a point of contact within the Department.

Format for Logging Complaints

The Advisor shall survey the Military Departments, Defense Agencies, and staff elements of the Office of the Secretary of Defense to determine the volume and types of consumer inquiries received and the procedures used in handling inquiries. The Advisor shall also review mailroom and telephone switchboard procedures to insure that complaints receive timely, courteous and appropriate responses, and that the complaint procedures facilitate the gathering of statistical and summary information for analysis by Departmental officials. The Advisor shall direct Consumer Program Representatives to establish a system, categorizing complaints for statistical analysis.

Investigation and Analysis

Standards issued by the Advisor shall seek to insure that complaints received are considered promptly and appropriately by officials of the Department.

Response Procedure

The Advisor shall prepare a Consumer Resource Handbook for Departmental use in responding to consumer inquiries.

Evaluation of Complaint Handling System

After issuing and implementing standards, the Advisor shall regularly evaluate the results of the systems and the promptness and quality of the Departmental responses to consumer inquiries.

Statistical Analysis

The Advisor shall prepare an annual report to the Secretary of Defense analyzing the complaints received by the Department. The Secretary of Defense and heads of the Military Departments and Defense Agencies shall consider the patterns of complaints received and the concerns expressed regarding Departmental policies and practices. Policy changes will be made as needed.

VI. OVERSIGHT

The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is designated as the Consumer Affairs Advisor (See Section I.) The Advisor shall work in conjunction with designated officials throughout the Department of Defense, as articulated heretofore in this Plan, and may bring to the direct attention of the Secretary of Defense any matters relevant to a unit's performance under this Plan for consideration and action. In addition to an annual report evaluating the status of this program, the Advisor may make ad hoc assessments as deemed necessary to determine the effectiveness of various aspects of this program.

H. E. Lofdahl,

Director, Corres. & Directives, Washington Headquarters Service, Department of Defense.

January 30, 1980.

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Part III

Department of Transportation

Federal Aviation Administration

Airworthiness Review Program; Amendment No. 8: Cabin Safety and Flight Attendant Amendments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23, 25, 27, 29, 91, and 121

[Dockets Nos. 14779 and 14324; Amendments Nos. 23-25; 25-51; 27-17; 29-18; 91-162 and 121-155]

Airworthiness Review Program; Amendment No. 8: Cabin Safety and Flight Attendant Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Federal Aviation Regulation is to update and improve the airworthiness standards applicable to cabin safety and to those affecting flight attendants. These amendments are part of the Airworthiness Review Program.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT: Everett W. Pittman, Safety Regulations Staff, (AVS-22) Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591, telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION: These amendments concern cabin and flight attendant safety and are part of the Airworthiness Review Program. They are based on two Notices of Proposed Rule Making—Notice 75-10 published in the **Federal Register** on March 7, 1975 (40 FR 10802), and Notice 75-31 published in the **Federal Register** on July 11, 1975 (40 FR 29410). Because of the Federal Aviation Administration's serious concern for cabin and flight attendant safety, these proposals are being handled separately in this amendment. This action completes disposition of the proposals contained in Notice 75-10; the remainder of the proposals contained in Notice 75-31 will be treated in a subsequent rulemaking action.

The following amendments have previously been issued as part of this Airworthiness Review Program:

Title and FR Citation

Form Number and Clarifying Revisions (40 FR 2576; Jan. 14, 1975).
Rotorcraft Anticollision Light Standards (41 FR 5290; Feb. 5, 1976).
Miscellaneous Amendments (41 FR 55454; Dec. 20, 1976).
Powerplant Amendments (42 FR 15034; March 17, 1977).
Equipment and Systems Amendments (42 FR 36960; July 18, 1977).
Flight Amendments (43 FR 2302; Jan. 16, 1978).
Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Interested persons have been afforded the opportunity to participate in the making of these amendments and due consideration has been given to all matters presented.

Background

In late 1978, the Administrator ordered a review of all cabin safety programs and projects within the various FAA offices. While the agency's several programs all pursued the same goal of improving safety, there was lacking a cohesiveness of effort, a central focal point. After assessing the status of these projects, the Administrator in early 1979, directed the agency to integrate all aspects of cabin safety into one program. The agency's new approach is to comprehensively deal with the problems by relating all aspects of cabin safety into a "total" cabin safety program with one program manager, the Director of Aviation Safety.

The integrated cabin safety program consists of a number of key activities which individually exist at various stages of completion. This amendment, as one element of that program, converts all but one of the proposals concerning cabin safety contained in the outstanding notices of proposed rulemaking, into final rules. The proposal concerning lower deck service compartments, § 25.819 (Proposal 8-40) has been deferred to later rulemaking action.

Other portions of the overall program, which are not dealt with in this action, concern such areas as the smoke, toxicity, and flammability characteristics of cabin interior materials and fuel explosion suppressive devices. These matters are currently the subjects of intensive research and development work which will form the basis of future regulatory standards.

The FAA's concern for improving the cabin safety environment for the traveling public, and for the flight crews and flight attendants serving that public, was underscored by the numerous comments received in response to Notices 75-10 and 75-31. While those notices contained many proposals for rule changes in other important airworthiness certification areas, the widespread concern over cabin safety has prompted the FAA to treat the subject by separate amendment at this time.

The proposals which form the basis for this amendment cover aircraft certification requirements for seats to be occupied by flight crew-members, flight attendants, and forward observers. Relative to the seats, the proposals also speak to seat belts and shoulder harnesses. Other items of cabin safety include stowage and service compartments, floor surfaces, and waste receptacles. In addition to the proposals related to type certification requirements, this amendment also completes action on proposals for operating rule changes that will impose some similar requirements on currently operating aircraft.

The FAA has determined that this document involves a proposed regulation which in non-significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The regulatory evaluation prepared for the regulations is contained in the regulatory docket. A copy of the regulatory evaluation may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *"

Discussion of Comments

The following discussion is keyed to like-numbered proposals contained in Notice 75-31. Proposals from Notice 75-10 are identified and discussed with the related Notice 75-31 proposals.

Proposals 8-36 and 2-60. In addition to the proposed revision of § 25.785 in Notice 75-31 dealing with the design and location of seats, berths, safety belts, and harnesses, a proposed Airworthiness Directive (AD), Docket No. 14912, was issued on August 7, 1975 (40 FR 34139) proposing the removal of side-facing flight attendant seats and establishing criteria for the design, location, and removal of other flight attendant seats.

Both Notice 75-31 and the proposed AD contained similar proposals for flight attendant seats, and comments were received on both proposals. An AD was subsequently issued on February 23, 1976 (41 FR 8766) to require the removal of each side-facing flight attendant seat. The AD did not require corrective action on the other items contained in the proposed AD, since it was intended that the design or removal of other flight attendant seats would be considered in connection with final rulemaking action under Proposals 8-36 and 8-117 in Notice 75-31. Comments received on the proposed AD have been considered under related proposals in Notice 75-31. The energy absorbing rest requirement of proposed § 25.785(h)(2)(i) is intended to answer numerous comments received in the AD docket relating to allegedly hazardous characteristics of certain galley mounted flight attendant jumpseats now used in air carrier service. Since § 25.785(h)(2)(i) is specifically made applicable to air

carrier operations in proposed § 121.311(f), present flight attendant jumpseats not designed to provide necessary arm, shoulder, head and spine support will be prohibited from use during air carrier operations upon the effective date of this amendment.

A commenter suggested that proposed § 25.785(g) only apply to required flight crew station seats and not to other flight deck seats such as rest seats or observer seats. The FAA does not agree. Nonrequired flight station personnel occupy seats that are very close to those of required personnel and, if these nonrequired flight station personnel are not properly restrained, their unrestrained movements during an emergency situation could interfere with operations by the flight crew. Therefore, the requirement of proposed § 25.785(g) is applicable to all seats on the flight deck.

Several commenters questioned whether the words "means to secure" in proposed §§ 25.785 (g) and (h) were intended to require a specific device or whether an operational procedure could be used that would require that the seat belt and shoulder harness be secured when not in use. Another commenter questioned whether the fastening of the harness around the seat when not occupied would meet the intent of the rule. The intent of the proposal for §§ 25.785 (g) and (h) is to provide a means or procedure for ensuring that the restraint system, when not in use, will not interfere with normal operation of the airplane or interfere with rapid egress of personnel in an emergency situation. The fastening of the restraint system around the seat would be acceptable if it meets this intent. The word "combined" which appears between the words "be" and "means" in the second sentence of proposed § 25.785(g) has been deleted as redundant. Several commenters questioned whether the term "when not in use" in proposed §§ 25.785 (g) and (h) related to not in use on a particular flight or not in use due to the seat having been momentarily vacated. However, the wording makes clear that the rule would apply in both instances.

Numerous comments were received on proposed § 25.785(h) to require that flight attendant seats be located near approved floor level exits and be equipped with a combined seat belt and shoulder harness.

Several commenters suggested that applicability of the proposed paragraph be restricted to seats provided for those attendants required by the operating rules, since excess flight attendants usually occupy passenger seats and the redesign of passenger seats to accept approved shoulder harnesses would be prohibitive in cost. The FAA maintains that flight attendants required by § 121.391 should have seats that meet the requirements of § 25.785(h). The phrase "required by § 121.391" has been deleted from § 121.311(f) and a new § 121.311(f)(3) has been added to clarify that the requirements of § 25.785(h) are not applicable to passenger seats occupied by flight attendants not required by § 121.391.

Two commenters suggested that shoulder harnesses not be required on rearward facing flight attendant seats, stating that a seat belt alone would offer secure and safe restraint. The FAA does not agree. Lateral restraint is required for rearward facing as well as for forward facing seats. A shoulder harness provides the degree of lateral restraint necessary to warrant its use at all flight attendant seats.

A commenter questioned whether mirrors could be used to meet the intent of the proposed § 25.785(h)(1), which would require that flight attendant seats be located to provide a view of the cabin area. The intent of the proposal is to require a direct view, and mirrors or other such devices are not considered acceptable because of their limitations. The proposed § 25.785(h)(1) is therefore revised to specify "direct view" and to make nonsubstantive editorial changes.

Two commenters stated that where galley doors are used as emergency exits, the placement of the attendant seats near the floor level exit, as required in proposed § 25.785(h), could preclude compliance with the requirement of proposed § 25.785(h)(1) that the flight attendants be provided a direct view of the cabin area. To cover this situation, a commenter suggested that the § 25.785(h)(1) requirement be conditioned to apply insofar as practicable and without compromising the proximity to required floor level exits. The FAA agrees that the requirement for location of the flight attendant seats near the floor level exits in this case is more important than the requirement that the flight attendant have a direct view of the cabin. Accordingly, the proposal is revised in the manner suggested.

Another commenter stated that access to the communication system when seated is not necessary for all flight attendants, and in particular those in excess of the number required by the operating rules. After further review, the FAA has concluded that the wording of proposed § 25.785(h)(1) referring to access to the communications system when seated may be ambiguous and cause misunderstandings when compared to the newly adopted provisions of §§ 25.1411(a)(2) and 121.319 of this Chapter (Amendment 7; 43 FR 50578). Newly adopted § 25.1411(a)(2) describes the requirements for the public address system microphone, whereas the § 121.319 requirement for a crewmember interphone system is also regarded as a communication system. However, there is no mention in Part 25 of the crewmember interphone described in § 121.319. To make the changes necessary to resolve this ambiguity would be beyond the scope of this proposal. Accordingly, the FAA has deleted the last portion of proposed § 25.785(h)(1) referring to access to the communications system when seated. The FAA will propose future rulemaking action to incorporate provisions in §§ 25.785 (h)(2)(i) and (h)(2)(ii).

Four commenters objected to proposed §§ 25.785 (h)(2)(i) and (h)(2)(ii) to require energy-absorbing rests on only rearward facing seats and suggested that forward facing seats also be required to have such rests. The FAA agrees, and the proposed § 25.785(h)(2) has been revised accordingly. A commenter suggested that the proposed § 25.785(h)(2) is redundant, since current § 25.785(c) already requires a seat with energy absorbing rests. The FAA does not agree. The § 25.785(c) requirement does not specify the energy absorbing rest that would be required by § 25.785(h)(2) for rearward and forward facing flight attendant seats.

Two commenters suggested deletion of the word "arms" if the intent is to require arm rests or side panels, for these would preclude the use of the fold-up seats needed to provide the necessary clearance and access to aisles and exits. The proposed rule is not intended to eliminate the use of fold-up seats. The intended arm support could be provided by a sufficiently large seat back, and this would not preclude the use of fold-up designs. Another commenter suggested that clarification of the word "energy absorbing rest" is necessary and suggested that the term "padding" was less confusing. The FAA believes that the term "energy absorbing rest" as currently employed in present § 25.785(c) is sufficiently clear and unambiguous. Moreover, introducing new terminology at this time would only lead to confusion.

Several comments were received on proposed § 25.785(h)(3), which would require that flight attendant seats be positioned to prevent interference with the use of passageways and exits. The commenters questioned whether the requirement would apply to unoccupied flight attendant seats. The FAA agrees

that the proposed requirement should be clarified and it has been revised to indicate that the requirement applies to flight attendant seats when not in use. Revised § 25.785(h)(3) has been redesignated and adopted as § 25.785(h)(2)(ii).

A commenter suggested the addition of a new § 25.785(h)(4) to state requirements for the design and location of supplemental oxygen equipment for use by the flight attendants. Since standards for the location of such equipment are presently under consideration in the Operations Review, that suggestion will be treated as a part of the Operations Review rulemaking.

A commenter suggested deletion of the words "during any operation" from the proposed § 25.785(j), which would require that each seat be located to minimize the probability of its occupant suffering injury by being struck by dislodged items. The commenter stated that the phrase was meaningless, unnecessary, and would be a source of never-ending controversy as to its intent. The FAA agrees, and proposed § 25.785(j) has been revised accordingly.

Several commenters questioned whether the proposed § 25.785(j) was intended to pertain to all passenger and flight attendant seats or merely to flight attendant seats. A commenter suggested that injury from dislodged contents of galleys or storage compartments is common to all seats in the cabin and that the flight attendant seats should not be singled out for action. Consistent with the wording of the previously issued AD dealing with flight attendant seats, the intent of proposed § 25.785(j) in Notice 75–31 was directed to flight attendant seats. Although all occupants of an airplane should be protected from injury from dislodged items, the FAA does not agree that all occupants are vulnerable to flying debris by reason of seat location. The flight attendant seats, being adjacent to exits, are frequently in aisles, passageways, or near galleys, and are therefore more vulnerable to being struck by objects dislodged from closets, galleys, supply racks, or shelves. Service experience shows that flight attendants are struck more often than other cabin occupants and proposed § 25.785(j) is revised to clarify its applicability to flight attendant seats.

Another commenter suggested that a strict interpretation of proposed § 25.785(j) would result in an incompatibility with the requirements that cabin attendant seats be near or adjacent to approved floor level exits, especially when such exits are galley service doors. The commenter suggested inclusion of the phrase "insofar as is practicable and without compromising the proximity to approved floor level exits * * *." The FAA does not agree. The requirement that flight attendant seats be located near approved floor level exits should not be compromised nor should locating such seats near galleys compromise the safety of the seated flight attendant. In this connection, proper galley design and seat location can greatly minimize the probability of the flight attendant being injured by dislodged items.

Finally, one commenter suggested a revision to § 25.785(j), by listing specific items to be considered in minimizing the likelihood of occupants being injured by dislodged items. The same commenter proposed that the description of likelihood of injury be changed from a "probability" to a "possibility". The FAA does not agree. Proposed § 25.785(j) would require that flight attendant seats be located to minimize the "probability" of occupant injury from dislodged items. Substantial design difficulties would be encountered in locating flight attendant seats to minimize harm from any possibility during flight operations. The commenter's proposal would create the unwarranted implication that seat locations be subject to statistical analysis. Nor is it necessary to enumerate all items capable of being dislodged, as the proposed wording would require that all items normally found in galleys, storage compartments, and serving carts must be considered. The same commenter's further suggestion for specifying means for securing all stowage compartments and related loose items is unnecessary since such structural considerations are adequately covered in the wording of § 25.785(j).

Disposition of Proposal 2–60 to amend § 25.785 (Notice 75–10) was deferred at the time of issuing the amendment published at 41 FR 55454 so that it could be considered in connection with Proposal 8–36. No unfavorable comments were received on Proposal 2–60. However, in view of the changes being made to § 25.785 under Proposal 8–36 of Notice 75–31, the changes proposed in 2–60 of Notice 75–10, with the exception of the word changes in paragraph (i) and the addition of a new paragraph (h), are unnecessary and are withdrawn. Proposed paragraph (h) concerning the forward observers' seat is adopted and redesignated as § 25.785(k).

Proposal 8–37. Two commenters objected to the wording "extremely improbable" in the proposed revision to § 25.787(b). One commenter stated that this wording implies a requirement for a reliability analysis, which the commenter indicated was unwarranted. The FAA concurs, and the requirement that an unwanted opening be extremely improbable is withdrawn.

Two commenters suggested that the intent of proposed § 25.787(b) is adequately covered in present § 25.789. However, the intent of the proposed section is to prevent inadvertent opening of the latched doors of stowage compartments by specifically requiring that service wear and deterioration be considered in the design. The § 25.787(b) requirement is therefore different than the § 25.789 requirement which is directed to retention of items of mass subjected to maximum load factors.

After consideration of the comments received and after further review, the FAA has determined that a clarification of the proposal is needed to indicate that the proposal applies only to stowage compartments in passenger and crew cabins. The proposal is revised accordingly.

Proposal 8–39. A commenter objected to the proposal for a new § 25.793 to require slip resistant properties on floor surfaces of all areas likely to become wet, stating that there appears to be no such hazard in general aviation airplanes. The FAA does not agree. Airplanes type certificated under Part 25 may be operated both as air carrier and general aviation type airplanes. Any transport category aircraft may be susceptible to this problem regardless of its type of operation.

A second commenter suggested that the wording of the proposal be revised to require consideration only of those areas "likely to become wet in service." The FAA agrees and the proposal is revised accordingly.

Several commenters questioned the term "slip resistant" as used in the proposal. A commenter stated that a definition of the term should be adopted. The FAA maintains that the term "slip resistant" is generally understood, and that no useful purpose would be served by providing a rigorous definition which might unduly restrict design choice.

Proposals 8–42, 2–18, 2–65, 2–114 and 2–160. Proposal 2–65 to revise § 25.853(c) is similar to Proposals 2–18, 2–114 and 2–160 to revise §§ 23.853(c), 27.853(c), and 29.853(c), respectively. Each of these proposals was set forth in Airworthiness Review Notice No. 2 (Notice 75–10) and their disposition was deferred for consideration with Proposal 8–42 (see Amendment No. 3 (41 FR 55454)). All comments on Proposals 2–18, 2–65, 2–114, and 2–160 are discussed herein.

Commenters pointed out that proposed § 25.853(c) contained "No Smoking" sign provisions which were

already set forth in current § 25.791, and suggested that one or the other be revised to avoid confusion. The FAA agrees and § 25.853(c) has been revised to refer to § 25.791 for the requirements for signs that notify passengers when smoking is prohibited. Because of this revision to Proposal 8–42, § 25.853(c) is not identical to §§ 23.853(c), 27.853(c), and 29.853(c); however, substantively identical language exists in § 25.791, referenced in the revised § 25.853(c) if § 25.853(c) were to be identical to §§ 23.853(c), 27.853(c), and 29.853(c), corresponding changes to § 25.791 and § 121.317(a) would be necessary. Such changes would unnecessarily complicate this amendment and would provide no meaningful advantage.

A commenter objected to proposed § 27.853(c)(2) on the grounds that "No Smoking" signs are not justifiable for normal category rotorcraft, which are limited to 6,000 pounds gross weight. It was contended that the passenger capacity of such rotorcraft is relatively small and that even when the crew and passenger compartments are separated, a simple "No Smoking" placard, or oral instructions from the crew, or both, would accomplish the intent of the proposal. With regard to a "No Smoking" placard, the FAA agrees that such a placard would be sufficient if smoking is to be prohibited. However, the FAA believes that when the crew compartment is separated from the passenger compartment, oral communication from crew to passenger may not be possible.

A commenter suggested that the distinction between the term "when illuminated" in proposed § 27.853(c)(2)(i), and the term "when illuminated internally" in proposed § 27.853(c)(2)(ii), should be made more clear. The FAA's intent was to require the lights to be so constructed that the crew can turn them on and off, consistent with similar requirements in current §§ 25.791, 121.317 and 127.115. Accordingly, the term "when illuminated internally" is deleted from §§ 23.853(c)(2)(ii), 27.853(c)(2)(ii) and 29.853(c)(2)(ii).

Several commenters objected to the requirement in proposed § 25.853(d) (Proposal 8–42) that towel, paper, and waste receptacles be fireproof, contending that—(1) Experience and tests have demonstrated that proper design using fire resistant materials provides entirely adequate fire containment; (2) the other requirements in proposed § 25.853(d) ensure fire containment in fire resistant receptacles; and (3) use of fireproof rather than fire resistant materials would result in a considerable weight penalty, particularly on large airplanes. In light of these comments, and after further consideration, the FAA concludes that fire resistant materials would be adequate for these receptacles. Proposed § 25.853(d) is revised accordingly.

Two commenters pointed out that proposed § 25.853(d) could be construed as applying to towel and paper dispensing equipment. The FAA's intent was to cover only those receptacles that are used for the *disposal* to towels, paper, and waste since these are receptacles in which fires have occurred in service. To make this clear, § 25.853(d) is revised by inserting the word "disposal" before the word "receptacle."

A commenter objected to the term "extremely improbable" in proposed § 25.853(d) because it implies a type of reliability analysis which the commenter claimed would not be appropriate to the requirements specified. Another commenter objected to the same term on the ground that it would be impossible to demonstrate. The FAA agrees that "extremely improbable" is not appropriate and the second sentence of § 25.853(d) is revised to read "* * * under all probable conditions of wear, misalignment, and ventilation expected in service * * *." The word "effects" is deleted as redundant.

One commenter stated that proposed § 25.853(d) would require that the receptacle have a lid and that this may not be practical when a chute leads from a spring-loaded door in the sink counter top into a container below. The FAA believes that a practical design complying with the proposal can be achieved by considering the combination of spring-loaded door, chute, and container as constituting the receptacle.

Two commenters objected to proposed § 25.853(e), stating that it was more restrictive than Airworthiness Directive (AD) 74–08–09, which deals with similar safety issues. In particular, the commenters stated that the AD allowed the use of—(1) "No Smoking" signs as an alternative to "No Smoking in Lavatory" signs; (2) signs "of sufficient size and contrast" as opposed to the proposed "red letters at least one inch high on a white background of at least two inches high"; (3) one ashtray to serve more than one lavatory door if the ashtray could be seen readily from the cabin side of each lavatory served. Concerning the first and third points, the FAA finds, after further consideration, that the less restrictive language in the AD would provide an adequate level of safety. Concerning the second point, the FAA believes it is necessary to require minimum standards for the size and contrast of the placards specified in proposed § 25.853(e). However, after further consideration, the FAA has concluded that these placards would be sufficiently conspicuous if the red letters and white background were one-half inch high and one inch high respectively. Section 25.853(e) is revised accordingly.

A commenter suggested that proposed § 25.853(e) be revised to allow the use of symbols to indicate "No Smoking in Lavatory" instead of letters. The FAA maintains that for lavatory placards, letters rather than symbols must be used to minimize the probability that the placard message would not be understood by the lavatory occupant. In contrast to the situation in the general cabin area, there would not be a person nearby who could explain the symbol if its meaning were not grasped. However, symbols may be included on the placard with the letters to further describe the no smoking condition.

A commenter who supported proposed §§ 25.853 (d) and (e) suggested that additional regulations should be developed to provide an active means of fire detection and extinguishing in compartments such as lavatories; however, the commenter did not make any specific recommendations.

Proposal 8–52. No unfavorable comments were received on the proposal to amend § 25.1413(c). Accordingly, the proposal is adopted without substantive change.

Proposal 8–116. Several commenters agreed in principle with the proposed § 91.200 to add a requirement that transport category aircraft be equipped with shoulder harnesses meeting the requirements of § 25.785 at each crewmember seat and flight attendant seat. Two of these commenters disagreed with the proposed one year compliance time, stating that two or three years was a more appropriate compliance time. The FAA finds that the one year proposed is a realistic time for accomplishing these tasks. However, the FAA recognizes that conditions beyond the control of an operator can occur to delay compliance with the rule. This could be the case even though a good faith effort was made by an operator to comply. Because of this, the proposal has been revised to provide, under appropriate circumstances, for a limited extension of the compliance date in accordance with a schedule acceptable to the FAA. Before granting any extension, the FAA will scrutinize each operator's request to determine if the operator made the showing required by § 91.200(b). In addition to demonstrating that circumstances beyond its control

make timely compliance impossible, the operator must submit a schedule showing that compliance will be achieved at the earliest practicable date. Any extension granted will be based upon the FAA's judgment as to the earliest date on which compliance is possible.

A commenter stated that some airplanes do not have adequate structure available at some flight attendant and jump seat locations to install a supported shoulder harness, particularly at those seats which are side facing. However, side-facing seats are no longer an issue since Airworthiness Directive 76–05–02 (Docket No. 14912, Amendment No. 39–2534) requires the removal of side-facing flight attendant seats from all transport category airplanes.

A commenter suggested that the proposal be revised to require compliance only when flight attendants are being carried, rather than at all times a flight attendant seat is installed. The commenter pointed out that some airplanes operate under Part 91 when conducting ferry or training flights. The FAA does not agree, since Proposal 8–117 would require that shoulder harnesses be installed for operations conducted under Part 121 and they would therefore already be in the airplane for the operation described by the commenter.

Several commenters on Proposal 8–117 pointed out that certain existing shoulder harness installations at pilot-in-command, second-in-command, and flight engineer stations are designed to less than the present 9g forward load factor requirement of § 25.785, and that to require a redesign to 9g would be impractical and prohibitive in cost. Other commenters noted that many flight attendant seats already have FAA-approved shoulder harnesses but not all are "combined safety belts and shoulder harness unit(s) with a single point release." The commenters stated that these installations have proved satisfactory in service and, since the operators voluntarily installed such FAA-approved shoulder harnesses, it would be unfair to now penalize them by requiring a retrofit restraint system with a single point release. The FAA finds that the comments submitted on Proposal 8–117 are equally appropriate for Proposal 8–116 and agrees with the commenters' recommendations. Proposed § 91.200 has been appropriately revised to allow the use of previously installed restraint systems at crewmember stations, provided the crewmember can perform assigned duties with the restraint system fastened, and it allows for existing restraint systems which were designed to the inertial load factors established under the certification basis of the airplane.

See Proposals 8–117 and 8–36 for related discussions.

Proposal 8–117. As in Proposal 8–116, several commenters objected to the proposed changes to § 121.311 which would require shoulder harnesses at each flight deck station. Several commenters also pointed out that shoulder harness installations now exist on airplanes which are designed to less than the present 9g requirements of § 25.785. Other commenters noted that many flight attendant seats already have FAA-approved shoulder harnesses but not all possess a single point release. For a discussion of all of these comments see Proposal 8–116. Qualifying statements have been added to the proposal to revise §§ 121.311 (e) and (f). These changes are substantively identical to those added to § 91.200(a) and discussed in Proposal 8–116.

A commenter objected to the requirement in proposed § 121.311(f) that would require all flight attendant seats to meet the requirements of § 25.785 of this chapter. The commenter stated that some passenger seats are being used for required flight attendants due to their proximity to floor level exits. The FAA maintains that all flight attendants required by § 121.391 should have seats that meet the requirements of § 25.785. The phrase "required by § 121.391" has been deleted from § 121.311(f) and a new § 121.311(f)(3) has been added to clarify that the requirements of § 25.785(h) are not applicable to passenger seats occupied by flight attendants not required by § 121.391.

A commenter pointed out that there was no time period for effecting compliance and suggested at least two years be allowed for retrofit of these restraint systems. In order to provide some time for compliance, proposed § 121.311(f) is revised substantively identical to revised § 91.200(b) (see Proposal 8–116).

Several commenters pointed out that the compliance time proposed for §§ 121.311 (e)(2), (f), (g), and (h) does not permit adequate time for design, fabrication, and retrofit. The FAA is satisfied that the time proposed is a realistic period for accomplishing these tasks. However, the FAA recognizes that conditions beyond the control of a certificate holder can occur to delay compliance with the rule. This could be the case even though a good faith effort was made by a certificate holder to comply. Because of this, proposed §§ 121.311 (e)(2), (f) and (h) have been revised to provide, under appropriate circumstances, for a limited extension of the compliance date in accordance with a schedule acceptable to the FAA. Section 121.311(j) describes the prerequisites for any operator to obtain an extension of the compliance dates established by the amendment. To be eligible for an extension, each operator must demonstrate that it is unable to comply due to circumstances beyond its control. In addition, the operator must submit a schedule showing that compliance will be achieved at the earliest practicable date. Any extension granted under this provision will be based upon the FAA's judgment as to the earliest date on which compliance is possible.

A commenter pointed out that proposed § 121.311(h) requires that each occupant of a seat equipped with a shoulder harness have the restraint system secured about him/her during takeoff and landing but does not require the occupant to be able to perform assigned duties with the shoulder harness fastened. Since the obvious intent of proposed § 121.311(h) was to require that the occupant of the seat be able to perform assigned duties with the shoulder harness attached, proposed § 121.311(h) is revised accordingly.

No unfavorable comments were received on the proposal to amend § 121.311(i) and the proposal is adopted without substantive change.

Proposal 8–118. The FAA withdrew the proposed new § 121.312(b) in a notice published in the Federal Register on August 24, 1978 (43 FR 37703).

A commenter pointed out that airplanes in service have already been required to comply with the essential substance of proposed new § 121.312(c) by means of Airworthiness Directive 74–08–09, which applies to all transport category airplanes, and recommended that this proposal be deleted. The FAA agrees. Airworthiness Directive 74–08–09 applies to airplanes operated under Parts 91, 121, and 135 of the Federal Aviation Regulations, and the proposed new § 121.312(c) is redundant with respect to airplanes operated under Part 121. The proposed new § 121.312(c) is therefore withdrawn.

Proposal 8–119. No unfavorable comments were received on the proposal to delete § 121.321. Accordingly, the proposal is adopted without substantive change. For related Discussion see Proposal 8–117.

Adoption of the Amendment

Accordingly, Parts 23, 25, 27, 29, 91, and 121 of the Federal Aviation Regulations are amended as follows, effective March 6, 1980.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By deleting § 23.853(b) and marking it "[Reserved]" and by revising § 23.853(c) to read as follows:

§ 23.853 Compartment interiors.

* * * * *

(b) [Reserved].

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one illuminated sign (using either letters or symbols) notifying all passengers when smoking is prohibited. Signs which notify when smoking is prohibited must—

(i) When illuminated, be legible to each passenger seated in the passenger cabin under all probable lighting conditions; and

(ii) Be so constructed that the crew can turn the illumination on and off; and

* * * * *

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

2. By inserting a comma between the words "seat" and "berth" and by deleting the words "or harness," between the words "belt" and "at" and inserting the words ", harness or both" in place thereof in the first sentence of § 25.785(i), and by revising §§ 25.785 (g) and (h) and adding new (j) and (k) to read as follows:

§ 25.785 Seats, berths, safety belts, and harnesses.

* * * * *

(g) Each seat at a flight deck station must have a combined safety belt and shoulder harness with a single-point release that permits the flight deck occupant, when seated with safety belt and shoulder harness fastened, to perform all of the occupant's necessary flight deck functions. There must be a means to secure each combined safety belt and shoulder harness, when not in use, to prevent interference with the operation of the airplane and with rapid egress in an emergency.

(h) Flight attendant seats in passenger compartments must be near required floor level emergency exits and be equipped with a restraint system consisting of a combined safety belt and shoulder harness unit with a single-point release. There must be means to secure each combined safety belt and shoulder harness, when not in use, to prevent interference with rapid egress in an emergency. In addition—

(1) To the extent possible without compromising their proximity to required floor level emergency exits, flight attendant seats must be located to provide a direct view of the cabin area for which the flight attendant is individually responsible.

(2) Flight attendant seats must—

(i) Either be forward or rearward facing, with an energy absorbing rest that is designed to support the arms, shoulders, head, and spine; and

(ii) Be positioned so that when not in use they will not interfere with the use of passageways and exits.

* * * * *

(j) Each flight attendant seat must be located to minimize the probability of its occupant suffering injury by being struck by items dislodged in a galley, or from a stowage compartment or serving cart. All items expected in these locations in service must be considered.

(k) Each forward observer's seat required by the operating rules must be shown to be suitable for use in conducting the enroute inspections prescribed by § 121.581(a).

3. By adding a sentence to the end of § 25.787(b) to read as follows:

§ 25.787 Stowage compartments.

* * * * *

(b) * * * For stowage compartments in the passenger and crew cabin, if the means used is a latched door, the design must take into consideration the wear and deterioration expected in service.

4. By adding a new § 25.793 to read as follows:

§ 25.793 Floor surfaces.

The floor surface of all areas which are likely to become wet in service must have slip resistant properties.

5. By deleting § 25.853(f) and revising § 25.853 (c), (d), and (e) to read as follows:

§ 25.853 Compartment interiors.

* * * * *

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one sign meeting the "No Smoking" sign requirements of § 25.791 notifying all passengers when smoking is prohibited.

(d) Each disposal receptacle for towels, paper, or waste must be fully enclosed and constructed of at least fire resistant materials, and must contain fires likely to occur in it under normal use. The ability of the disposal receptacle to contain those fires under all probable conditions of wear, misalignment, and ventilation expected in service must be demonstrated by test. A placard containing the legible words "No Cigarette Disposal" must be located on or near each disposal receptacle door.

(e) Lavatories must have "No Smoking" or "No Smoking in Lavatory" placards located conspicuously on each side of the entry door, and self-contained removable ashtrays located conspicuously on or near the entry side of each lavatory door, except that one ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory door served. The placards must have red letters at least one-half inch high on a white background of at least one inch high. (A "No Smoking" symbol may be included on the placard.)

§ 25.1413 [Amended]

6. By adding the words "and shoulder harness" after the words "each belt" in § 25.1413(c).

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

7. By revising § 27.853(c) to read as follows:

§ 27.853 Compartment interiors.

* * * * *

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one illuminated sign (using either letters or symbols) notifying all passengers when smoking is prohibited. Signs which notify when smoking is prohibited must—

(i) When illuminated, be legible to each passenger seated in the passenger cabin under all probable lighting conditions; and

(ii) Be so constructed that the crew can turn the illumination on and off.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

8. By revising § 29.853(c) to read as follows:

§ 29.853. Compartment interiors.

* * * * *

(c) If smoking is to be prohibited, there must be a placard so stating, and if smoking is to be allowed—

(1) There must be an adequate number of self-contained, removable ashtrays; and

(2) Where the crew compartment is separated from the passenger compartment, there must be at least one illuminated sign (using either letters or symbols) notifying all passengers when smoking is prohibited. Signs which notify when smoking is prohibited must—

(i) When illuminated, be legible to each passenger seated in the passenger cabin under all probable lighting conditions; and

(ii) Be so constucted that the crew can turn the illumination on and off.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

9. By adding a new § 91.200 to read as follows:

§ 91.200 Shoulder harness.

(a) Except as provided in paragraph (b) of this section, after March 6, 1981, no person may operate a transport category airplane unless it is equipped with a combined safety belt and shoulder harness that meets the applicable requirements specified in § 25.785 of this chapter at each required flight attendant seat in the passenger compartment and at each flight deck station, except that—

(1) Shoulder harnesses and combined safety belt and shoulder harnesses that were approved and installed before March 6, 1980, may continue to be used; and

(2) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

(b) An operator may obtain an extension of the compliance date specified in paragraph (a) of this section, but not beyond March 6, 1982, from the Director, Office of Flight Operations, if the operator:

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

10. By revising the heading of § 121.311, revising § 121.311(e), and adding new §§ 121.311 (f), (g), (h), (i), and (j) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

* * * * *

(e) No person may operate a transport category airplane—

(1) That was type certificated after January 1, 1958, unless it is equipped with a shoulder harness at the pilot-in-command station, the second-in-command station, and the flight engineer station; and

(2) Except as provided in paragraph (j) of this section, after March 6, 1981, no person may operate a transport category airplane unless it is equipped with a combined safety belt and shoulder harness that meets the applicable requirements specified in § 25.785 of this Chapter at each flight deck station, except that—

(i) Shoulder harnesses and combined safety belt and shoulder harnesses that were approved and installed before March 6, 1980, may continue to be used; and

(ii) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

(f) Except as provided in paragraph (j) of this section, after March 6, 1980, each flight attendant must have a seat for takeoff and landing in the passenger compartment that meets the requirements of § 25.785 of this chapter, except that—

(1) Combined safety belt and shoulder harnesses that were approved and installed before March, 6, 1980, may continue to be used; and

(2) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

(3) The requirements of § 25.785(h) do not apply to passenger seats occupied by flight attendants not required by § 121.391.

(g) Until March 6, 1981, each occupant of a seat equipped with a shoulder harness must have the shoulder harness properly secured about that occupant during takeoff and landing except that a flight crewmember need not fasten the shoulder harness if that crewmember cannot perform assigned duties with the shoulder harness fastened.

(h) Except as provided in paragraph (j) of this section, after March 6, 1981, each occupant of a seat equipped with a combined safety belt and shoulder harness must have the combined safety belt and shoulder harness properly secured about that occupant during takeoff and landing and be able to properly perform assigned duties.

(i) At each unoccupied seat, the safety belt and shoulder harness, if installed, must be secured so as not to interfere with crewmembers in the performance of their duties or with the rapid egress of occupants in an emergency.

(j) A certificate holder may obtain an extension, not to exceed one year, of the compliance date specified in paragraphs (e), (f), and (h) of this section from the Director, Office of Flight Operations, if the certificate holder:

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

§ 121.321 [Reserved]

11. By deleting § 121.321 and marking it "[Reserved]."

(Secs. 313(a), 601, 603, and 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is non-significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for the regulations is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT * * *"

Issued in Washington, D.C., on January 29, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-3556 Filed 2-1-80; 8:45 am]

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federal register

Monday
February 4, 1980

Part IV

Environmental Protection Agency

Ammonium Sulfate Manufacture; Proposed Standards of Performance and Notice of Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1353-3]

Standards of Performance for New Stationary Sources; Ammonium Sulfate Manufacture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: The proposed standards would limit atmospheric emissions of particulate matter from new, modified, and reconstructed ammonium sulfate manufacturing dryers. The standards implement section 111 of the Clean Air Act and are based on the Administrator's determination that ammonium sulfate manufacturing plants contribute significantly to air pollution. The intended effect is to require new, modified, and reconstructed ammonium sulfate manufacturing plants to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impact, and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 5, 1980.

Public Hearings. The public hearing will be held on March 6, 1980 (about 30 days after proposal) beginning at 9 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony at the hearing should contact EPA by February 29, 1980 (one week before hearing).

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A-79-31.

Public Hearing. The public hearing will be held at The Environmental Research Center Auditorium Rm B-102, Research Triangle Park, N.C. Persons wishing to present oral testimony should notify Shirley Tabler, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5421.

Background Information Document. The background information document for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Ammonium Sulfate Manufacture—Background Information for Proposed Emission Standards," EPA-450/3-79-034.

Docket. A docket, number A-79-31, containing information used by EPA in development of the proposed standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), Room 2903B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would limit atmospheric particulate matter emissions from new, modified, and reconstructed ammonium sulfate dryers at caprolactam by-product ammonium sulfate plants, synthetic ammonium sulfate plants, and coke oven by-product ammonium sulfate plants.

Specifically, the proposed standards would limit exhaust emissions from ammonium sulfate dryers to 0.15 kilogram of particulate matter per megagram of ammonium sulfate production (0.30 lb/ton). An opacity emission standard is also proposed and would limit emissions from the affected facility to no more than 15 percent.

The proposed standards would require continuous monitoring of the pressure drop across the control system for any affected facility to help ensure proper operation and maintenance of the system. Flow monitoring devices necessary to determine the mass flow of ammonium sulfate feed material to the process would also be required.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards would reduce projected 1985 particulate emissions from new, modified, and reconstructed ammonium sulfate dryers from about 670 megagrams (737 tons) per year, the level of emissions under a typical State Implementation Plan, to about 131 megagrams (144 tons) per year. Compliance with the proposed standards would amount to an 80 percent reduction of particulate emissions under a State Implementation Plan and would bring the overall collection efficiency to near 99.9 percent of the uncontrolled emissions. This reduction in emission would result in reduction of ambient air concentrations of particulate matter in the vicinity of new, modified, and reconstructed ammonium sulfate plants. The proposed standards are based on the use of venturi scrubbing or fabric filtration to control particulate matter. No water discharge would be generated by the control equipment required and all captured particulate matter would be reclaimed; therefore, the proposed standards would have no adverse impact on water quality or solid waste.

The proposed standards would not significantly increase energy consumption at ammonium sulfate plants and would have a minimal impact on national energy consumption. The incremental energy needed to operate control equipment to meet the standards would range from 0.10 percent of the total energy required to run a synthetic or coke oven by-product ammonium sulfate plant to 0.65 percent of the total energy required to operate a caprolactam by-product ammonium sulfate plant.

Economic analysis indicates that the impact of the proposed standards is reasonable. Cumulative capital costs of complying with the proposed standards for the ammonium sulfate industry as a whole would be about $1.0 million by 1985. Annualized cost to the industry in the fifth year of the proposed standards would be about $0.5 million. The industry-wide price increase necessary to offset the cost of compliance would amount to less than 0.01 percent of the wholesale price of ammonium sulfate. Costs of emission control required by the proposed standards are not expected to prevent or hinder expansion or continued production in the ammonium sulfate industry.

Rationale

Selection of Source for Control

The Priority List (40 CFR 60.16, 44 FR 49222, August 21, 1979) identifies various sources of emissions on a nationwide basis in terms of quantities of emission from source categories, the mobility and competitive nature of each source category, and the extent to which each pollutant endangers health and welfare. The Priority List reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution and is intended to identify major source categories for which standards of performance are to be promulgated. The ammonium sulfate manufacturing industry is listed among

those source categories for which new source performance standards (NSPS) must be promulgated.

Ammonium sulfate has been an important nitrogen fertilizer for many years. Its early rise to importance as a fertilizer resulted from its availability as a by-product from such basic industries as steel manufacturing and petroleum refining. By-product generation has continued to dominate the industry. By-product ammonium sulfate from the caprolactam segment of the synthetic fibers industry is now the single largest source, accounting for more than 50 percent of ammonium sulfate production.

Production of ammonium sulfate as a by-product also ensures that it will continue as an important source of nitrogen fertilizer in the United States. This is illustrated by the fact that, in response to an increase in demand, caprolactam production is expected to increase at compounded annual growth rates of up to 7 percent through the year 1985; and for every megagram of caprolactam produced, 2.5 to 4.5 megagrams of ammonium sulfate are produced as a by-product.

Over 90 percent of ammonium sulfate is generated from three types of plants: Synthetic, caprolactam by-product, and coke oven by-product. Investigation has shown that the impact of regulation and potential for emission reduction is significant only within these three industry sectors. Synthetic ammomium sulfate is produced by the direct combination of ammonia and sufuric acid. Caprolactam ammomium sulfate is produced as a by-product from streams generated during caprolactam manufacture. Ammonia recovered from coke oven off-gas is reacted with sulfuric acid to produce coke oven ammonium sulfate. These three major segments of the ammonium sulfate industry would be regulated by the proposed new source performance standards.

Selection of Pollutant

Study of the ammonium sulfate industry has shown that ammonium sulfate emissions are the principal pollutant emitted to the atmosphere from ammonium sulfate plants. At operating temperatures, the ammonium sulfate emissions occur as solid particulate matter, a "criteria" pollutant for which national ambient air quality standards have been promulgated.

Currently, a variety of wet collection systems are employed to control ammonium sulfate particulate emissions to levels of compliance with State and local air pollution regulations (typically a reduction of 97 to 98 percent). Existing State regulations range from a low of 0.71 kilogram of particulate per megagram of ammonium sulfate production to a high of 1.3 kilograms per megagram. By the year 1985, new, modified, and reconstructed ammonium sulfate manufacturing dryers would cause annual nationwide particulate emissions to increase by about 670 Mg/year (737 tons/year), with emissions controlled to the level of a typical State Implementation Plan (SIP) regulation. (Estimate based on growth rate demonstrated over past decade.)

Volatile organic compounds (VOC) are also emitted from process dryers at caprolactam by-product ammonium sulfate plants. Test data indicate that the caprolactam VOC mass emissions are largely in the vapor phase and at least two orders of magnitude lower than ammonium sulfate particulate emissions (110 kg/Mg for particulate matter versus 0.78 kg/Mg for the VOC emissions). In addition, wet collectors currently in use as particulate control systems have demonstrated an 88 percent removal efficiency of uncontrolled caprolactam VOC emissions. At this control level, new, modified, and reconstructed caprolactam ammonium sulfate plants would add only about 76 megagrams per year to nationwide VOC emissions by 1985. Therefore, the only pollutant recommended for control by the proposed standards is particulate matter.

Selection of the Affected Facility

Ammonium sulfate crystals are formed by continuously circulating a mother liquor through a crystallizer. When optimum crystal size is achieved, precipitated crystals are separated from the mother liquor (dewatered) usually by centrifuges. Following dewatering, the crystals are dried and screened to product specifications.

Nearly all of the particulate matter emitted to the atmosphere from ammonium sulfate manufacturing plants is in the gaseous exhaust streams from the process dryers. Other plant processes, such as crystallization, dewatering, screening, and materials handling, are not significant emission sources.

Ammonium sulfate dryers can be either of the fluidized bed or the rotary drum type. All fluidized bed units found in the industry are heated continuously with steam-heated air. The rotary units are either direct-fired or steam heated. Air flow rates for the ammonium sulfate dryers at caprolactam plants range from 560 scm/Mg of product to 3,200 scm/Mg of product. The lower value represents direct-fired rotary drum units and the higher value represents fluidized bed drying units using steam-heated air. At synthetic plants, air flow rates range from 360 scm/Mg to 770 scm/Mg of product. All drying units at synthetic plants are of the rotary drum type.

One consequence of the wide range of gas flow rates for the differing drying systems is that particulate emission rates, which are directly related to the gas-to-product ratio, also vary considerably for each drying unit involved. (Gas-to-product ratio is defined as the volume of dryer exhaust gas per unit of production, e.g., dry standard cubic meters per megagram of ammonium sulfate produced.) Emission tests using EPA Method 5 show an uncontrolled ammonium sulfate emission range of 0.44 kg/Mg to 76.7 kg/Mg for rotary dryers. The one fluidized bed dryer tested showed an uncontrolled emission rate of 110 kg/Mg of ammonium sulfate production.

Since the process dryer is the only significant source of ammonium sulfate particulate emissions, the ammonium sulfate manufacturing industry can be effectively controlled by specifying emission limitations for the process dryer. Therefore, the ammonium sulfate dryer has been selected as the affected facility for which particulate matter regulations are proposed.

Selection of the Format of the Recommended Standards

A number of regulatory formats are available for standards limiting the emission of particulate matter to the atmosphere. Among the formats judged as inappropriate for application in the ammonium sulfate industry were a mass per unit time performance standards and such non-performance standards as design, equipment, work practice, and operational specifications. A standard based on mass per unit time (e.g., kg/hr) would require that a relationship be constructed showing how the allowable mass rate of emissions would vary with both production and time. Such a relationship could not be determined without extensive source tests performed at great expense.

Section 111(h) of the Clean Air Act establishes a presumption against design, equipment, work practice, and operational standards. For example, a standard based on a specific type of drying equipment without add-on controls or a standard limiting the dryer air flow rate cannot be promulgated unless a standard of performance is not feasible. Performance standards for control of ammonium sulfate dryer particulate emissions have been determined as practical and feasible; therefore, design, equipment, work

practice, or operational standards were not considered as regulatory options.

Two additional formats for the proposed standards were considered: mass standards, which limit emissions per unit of feed to the ammonium sulfate dryer or per unit of ammonium sulfate processed by the dryer; and concentration standards, which limit emissions per unit volume of exhaust gases discharged to the atmosphere.

Mass standards, expressed as allowable emissions per unit of production, are related directly to the quantity of particulate matter discharged to the atmosphere. They regulate emissions based on units of input or output, thereby denying any dilution advantage. Mass standards also allow for variation in process techniques such as decreasing the air flow rate through the dryer. A primary disadvantage of mass standards, as compared to concentration standards, is that their enforcement may be more time consuming and therefore more costly. The more numerous measurements and calculations required also increase the opportunities for error. Determining mass emissions requires the development of a material balance on process data concerning the operation of the plant, whether it be input flow rates or production flow rates. The need for such a material balance is particularly relevant in the case of ammonium sulfate plants. The determination of throughput in the ammonium sulfate dryer is seldom direct. None of the plants investigated during development of the proposed standards made direct measurements of the dryer input or output. Process weights were determined indirectly through monitoring of input stream feed rates.

In general, enforcement of concentration standards requires a minimum of data and information, thereby decreasing the costs of enforcement and reducing the chances of error. However, in the ammonium sulfate industry, enforcement of concentration standards may be complicated by use of two-stage fluidized bed dryers which add ambient air streams at the discharge end of the dryer. There is a potential for circumventing concentration standards by diluting the exhaust gases discharged to the atmosphere with excess air, thus lowering the concentration of pollutants emitted but not the total mass emitted. For combustion operations, this problem can usually be overcome by correcting the concentration measured in the gas stream to a reference condition such as a specified oxygen or carbon dioxide percentage in the gas stream. However, in the ammonium sulfate industry the drying process frequently does not involve direct combustion operations. The drying air may be heated by an outside source; therefore, it is not always possible to "correct" the amount of exhaust air to account for dilution.

Since design dryer gas flow rates vary from process to process, concentration standards applied to the ammonium sulfate industry would penalize those plant operators who chose to use a low air flow rate for the ammonium sulfate dryer. A decrease in the amount of dryer air decreases the volume of gases released but not necessarily the quantity of particulate matter emitted. As a result, the concentration of particulate matter in the exhaust gas stream would increase even though the total mass emitted might remain nearly the same.

Because mass standards directly limit the amount of particulate matter emitted into the atmosphere per megagram of ammonium sulfate production, the same emission limit can be applied to all dryer types and sizes, production rates, and air flow rates. The flexibility of mass standards to accommodate process variations, such as the wide gange of gas-to-product ratios found in the industry, allows all segments of the ammonium sulfate industry to be regulated with a single mass emission standard. These advantages outweigh the drawbacks associated with the determination of process weight. Consequently, mass standards were judged more suitable for regulation of particulate emissions from ammonium sulfate dryers and were selected as the format for expressing the standards of performance for ammonium sulfate manufacturing plants.

The mass limit proposed will apply to the exhaust gas streams as they discharge from control equipment. The proposed standards express allowable particulate emissions in kilograms per megagram (kg/Mg) of ammonium sulfate production.

Selection of the Best System of Emission Reduction and the Numerical Emission Limits

Section 111 of the Clean Air Act requires that standards of performance reflect the degree of emission control achievable through application of the best demonstrated technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact, and energy requirements) has been adequately demonstrated. The proposed standards were developed based on information derived from (1) available technical literature on the ammonium sulfate manufacturing industry and applicable emission control technology, (2) technical studies performed for EPA by independent research organizations, (3) information obtained from the industry during visits to ammonium sulfate plants and meetings with various representatives of the industry, (4) comments and suggestions solicited from experts, and (5) results of emission measurements conducted by EPA.

Control Technology

Both venturi scrubbing and fabric filtration represent the most efficient add-on control techniques available to abate particulate emissions. In application to particulate collection from ammonium sulfate dryers, both have the potential to reduce ammonium sulfate emissions from process dryers to less than 0.15 kilogram per megagram of ammonium sulfate production, although energy requirements and costs may differ considerably.

Venturi scrubbers are most suitable for application to ammonium sulfate dryers. In caprolactam by-product ammonium sulfate plants, ammonium sulfate feed streams are used as a scrubbing liquor and in synthetic ammonium sulfate plants the condensate from the reactor/crystallizer is used as the scrubbing liquor. This allows the collected particulate to be easily recycled to the system without the addition of excess water. Because medium-energy (25 to 33 centimeters water guage (W.G.) pressure drop) venturi scrubbing with high liquid-to-gas ratios achieves a high collection efficiency and because venturi scrubbing is compatible with and complimentary to the processes involved, it is considered the most attractive add-on control system.

The fabric filter baghouse should also be able to achieve the level of control required by the standards based on similar applications in other industries. Normal operation of a baghouse for ammonium sulfate particulate collection, i.e., at temperatures above the dewpoint of the exhaust gas, should be feasible. However, in asseessing fabric filters as an emission control option, the following factors must be considered. For high gas flow rates, capital and operating costs as well as energy requirements are higher for fabric filters than for medium energy scrubbers of the same construction material. For caprolactam by-product plants using steam-heated fluidized bed dryers, the ratio of gas flow to product rate is at least an order of magnitude higher than that of the direct-fired rotary drum dryer operating with fabric filters. As the size of a

baghouse becomes larger, capital and annual operating costs increase. For example, maintaining the temperature of the exhaust gas and baghouse surfaces above the dewpoint may require more energy than would ordinarily be required to operate the dryer.

With caprolactam by-product ammonium sulfate plants apparently providing most of the anticipated growth in the ammonium sulfate industry, consideration should also be given to caprolactam VOC mass emissions from ammonium sulfate dryers. Available test data indicate that most of the caprolactam emissions associated with the ammonium sulfate dryer are in the vapor state. This suggests that the caprolactam emissions would pass through a fabric filter collection system. On the other hand, a venturi scrubber has demonstrated removal efficiency of 88 percent of the caprolactam from ammonium sulfate dryers. Thus, use of venturi scrubbers would, at a minimum, maintain existing VOC control levels now achieved by in-use wet collection systems.

Emission Tests

Based on a survey of the ammonium sulfate production industry, four plants were selected for EPA Method 5 particulate emission testing. These four ammonium sulfate manufacturing plants were then tested by EPA in order to evaluate control techniques currently used for controlling particulate emissions from ammonium sulfate dryers.

Presently throughout the ammonium sulfate industry, a variety of wet-scrubbing systems are employed to control ammonium sulfate particulate emissions. The majority of these are low-energy wet scrubbers, although medium-energy venturi scrubbers are being used with some ammonium sulfate dryers. For wet scrubbing systems in general, collection efficiency tends to increase with increased energy input, i.e., the higher the pressure drop, the higher the removal efficiency of particulates. This was borne out by analysis of EPA test results. For example, a synthetic ammonium sulfate plant, with a rotary drum drying facility controlled by a low-energy wet scrubber operating at a pressure drop of 15 centimeters (6 inches) W.G., showed a particulate collection efficiency of 97 percent. EPA test results from facilities with increased energy inputs, e.g., venturi scrubbers operating at pressure drops of 25.9 centimenters and 33 centimeters (10 and 13 inches) W.G. showed typically higher control efficiencies. In these latter cases, control efficiencies of 99.8 and 99.9 percent by weight were demonstrated with outlet particulate emission rates of 0.158 kg/Mg and 0.156 kg/Mg of ammonium sulfate production, respectively, at a synthetic ammonium sulfate plant using a rotary dryer and a caprolactam by-product ammonium sulfate plant using a fluidized bed dryer.

Additional emission test data on wet scrubbing control units have been provided by ammonium sulfate plant operators. At one facility, test results using EPA Method 5 show an average particulate emission rate of 0.135 kg/Mg of ammonium sulfate production. The facility, a caprolactam ammonium sulfate plant with a fluidized bed dryer, is controlled by a centrifugal scrubber preceded by a series of cyclones. The scrubber operates at 34 centimeters (13.4 inches) W.G. pressure drop.

Alternative emission control techniques were also examined. The one dry ammonium sulfate particulate control system in use (a fabric filter unit) was tested by EPA because it represents a unique application of this control method in the ammonium sulfate industry. The facility, a synthetic ammonium sulfate plant using a rotary dryer, did achieve a low mass emission rate, 0.007 kg/Mg (0.014 lb/ton); however, this emission rate is not considered representative of a typical ammonium sulfate facility. For example, the baghouse in use was originally designed for another application, and the gas flow rate to this unit is appreciably lower than normal direct-fired gas flow. This constraint on gas flow rate, by restricting the ratio of dryer exhaust gas-to-product rate, results in a significantly lower uncontrolled inlet emission rate than most other dryers used in the industry. In fact, the fabric filter inlet uncontrolled particulate emission rate was 0.41 kg/Mg of production, while those of facilities controlled by venturi scrubbers were 110 kg/Mg and 77 kg/Mg. This represents an uncontrolled mass emission difference in the range of two orders of magnitude. Thus, comparison of the outlet mass emissions for this facility with those of the other facilities tested is, in this situation, somewhat misleading.

Regulatory Options

Review of the performance of the emission control techniques led to the identification of two regulatory options. The two options are based on emission control techniques representative of two distinct levels of control. Each option specifies numerical emission limits for ammonium sulfate dryers applicable to the three major sectors of the ammonium sulfate industry. Option I is equivalent to no additional regulatory action. For this option, particulate emission levels would be set by existing SIP regulations, typically in the range of 0.71 kg/Mg to 1.3 kg/Mg of ammonium sulfate production. This option is characterized by the use of a low energy wet scrubber to meet the required emission limit, a reduction of 97 to 98 percent. Option II, based on the use of a venturi scrubber or fabric filter, would set an emission limit of 0.15 kilogram of particulate per megagram of ammonium sulfate production. As applied to the ammonium sulfate industry, both the venturi scrubber and the fabric filter control systems are capable of greater than 99.9 percent control efficiency. Option II therefore represents the most stringent control level that can be met by all segments of the ammonium sulfate industry.

Using model plants for the new, modified, and reconstructed ammonium sulfate facilities, the environmental impacts, energy impacts, and economic impacts of each regulatory option were analyzed and compared. Each ammonium sulfate manufacturing sector is unique from a technical standpoint. Dryer types and sizes, gas-to-product flow rates, and uncontrolled particulate emission rates vary from one sector to another and often within each sector. For these reasons it was apparent that no single model plant could adequately characterize the ammonium sulfate industry. Accordingly, several model dryers were specified in terms of the following parameters: Production rate, dryer types, exhaust gas flow rates, emission rates, stack height, stack diameter, and exit gas temperatures. The evaluation of these parameters may be found in Chapters 6, 7, and 8 of the document, "Ammonium Sulfate Manufacture—Background Information for Proposed Emission Standards."

Under Option I, annual nationwide particulate emissions from new, modified, and reconstructed ammonium sulfate manufacturing plants would increase by about 670 Mg/year (737 tons/year) between 1980 and 1985. Under Option II, nationwide particulate emissions would increase by 131 Mg/year (144 tons/year) during the same period. This represents a reduction of about 80 percent in the particulate emissions emitted under Option I, a typical SIP regulation.

Dispersion analysis under "worst case" atmospheric and meteorological conditions shows that the maximum 24-hour concentration of particulates in the vicinity of a new, modified, and reconstructed ammonium sulfate plant would be reduced by a factor of 80

percent (from 224 to 47.4 micrograms per cubic meter) by controlling to Option II rather than the SIP emission limit. The maximum annual average is reduced from 29.1 to 6.15 micrograms per cubic meter under Option II.

Effluent guidelines set forth in 40 CFR 418.60 limit water pollution from synthetic and coke oven ammonium sulfate plants. In the caprolactam by-product ammonium sulfate plant, water is removed in the crystallizer, condensed and recycled to the principal plant for plant use. The addition of a scrubber for emission control would not create a water pollution problem since all scrubbing liquor would be recycled to the process. The use of a baghouse would not create a water pollution problem since it is a dry collection system. Consequently, the water pollution impact of Option II would be zero.

The ammonium sulfate plants generate no solid waste as part of the process since all collected ammonium sulfate is recycled to the process. Furthermore, no significant increase in noise level is anticipated under Option II.

For typical plants in the ammonium sulfate manufacturing industry, an increase in energy consumption would result from compliance with Option II. The energy required, in excess of that required by a typical SIP regulation, to control caprolactam by-product ammonium sulfate plants to the level of Option II would be 8.8 gigawatt hours of electricity per year in 1985 using venturi scrubbers. The overall energy increase would amount to less than 0.65 percent of the total energy required to operate a typical caprolactam by-product ammonium sulfate plant. For synthetic and for coke oven by-product ammonium sulfate plants, the 1985 incremental energy increase would be 0.61 and 0.14 gigawatt hours per year, respectively, or less than a 0.1 percent increase. The total industry-wide energy increment would be 9.5 gigawatt hours per year in 1985. This figure indicates that Option II would not significantly increase energy consumption at ammonium sulfate plants and would have minimal impact on national energy consumption.

Economic analysis also indicates that the impact of Option II is minimal. The capital cost of the installed emission control equipment necessary to meet Option II, on all new, modified, and reconstructed ammonium sulfate facilities coming on line nationwide during the period 1980 to 1985, would be about $958,000. The total annualized cost of operating this equipment during the same period would be about $480,200. These costs are considered reasonable, and are not expected to prevent or hinder expansion or continued production in the ammonium sulfate manufacturing industry. The incremental cost necessary to offset the cost of meeting Option II would be about 0.01 percent of the wholesale price of ammonium sulfate.

Consideration of the beneficial impact on national particulate emissions; the lack of water pollution impact or solid waste impact; the minimal energy impact; the reasonable cost impact; and the general availability of demonstrated emission control technology leads to the selection of Option II as the basis for the proposed standards of performance for ammonium sulfate dryers.

Selection of Opacity Emission Limits

The best indirect method of ensuring proper operation and maintenance of emission control equipment is the specification of exhaust gasopacity limits. Determining an acceptable exhaust gas opacity limit is possible because opacity levels were evaluated for ammonium sulfate dryers during EPA tests; therefore, the data base for the particulate standards includes information on opacity. Ammonium sulfate dryers were observed to have no opacity readings greater than 15 percent opacity, and a total of 90 minutes of opacity of less than or equal to 15 percent but greater than 10 percent during observation periods of 180, 120, 438, and 408 minutes (1146 minutes total). Therefore, a standard of 15 percent opacity is proposed for all affected facilities to ensure proper operation and maintenance of control systems on a day-to-day basis.

Selection of Performance Test Methods

The use of EPA Reference Method 5—"Determination of Particulate Emissions from Stationary Sources" would be required to determine compliance with the mass standards for particulate matter emissions. Results of performance tests using Method 5 conducted by EPA on existing ammonium sulfate dryers comprise a major portion of the data base used in the development of the proposed standards. EPA Reference Method 5 has been shown to provide a representative measurement of particulate matter emissions. Therefore, it is included for the purpose of determining compliance with the proposed standards.

Method 5 calculations require imput data obtained from three other EPA test methods conducted previous to the performance of Method 5. Method 1, "Sample and Velocity Traverse for Stationary Sources," must be used to obtain representative measurements of pollutant emissions. The average gas velocity in the exhaust stack is measured by conducting Method 2, "Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)." The analysis of gas composition is measured by conducting Method 3, "Gas Analysis for Carbon Dioxide, Oxygen, Excess Air, and Dry Molecular Weight." These three tests provide data necessary in Method 5 for determining concentration of particulate matter in the dryer exhaust. All opacity observations would be made in accordance with the procedures established in EPA Method 9 for stack emissions.

Since the proposed standards are expressed as mass of emissions per unit mass of ammonium sulfate production, it will be necessary to quantify production rate in addition to measuring particulate emissions. Ammonium sulfate production in megagrams shall be determined by direct measurement using product weigh scales or computed from a material balance. A material balance computation based on the chemical reactions used in the formation of ammonium sulfate is an acceptable method of determining production rate since the formation reactions used in all industrial sectors are quantitative and irreversible.

If a material balance is used, the ammonium sulfate production rate for synthetic and coke oven by-product ammonium sulfate plants shall be calculated from the metered sulfuric acid feed rate to the reactor/crystallizer. For caprolactam by-product ammonium sulfate plants, production rate shall be determined from the oximation ammonium sulfate solution flow rate and the oleum flow to the caprolactam rearrangement reaction.

Selection of Monitoring Requirements

To further ensure that installed emission control systems continuously comply with standards of performance through proper operation and maintenance, monitoring requirements are generally included in standards of performance. In the case of ammonium sulfate dryers, the most straightforward means of ensuring proper operation and maintenance is to require monitoring of actual particulate emissions released to the atmosphere. Currently, however, there are no continuous particulate monitors in operation for ammonium sulfate dryers; and resolution of the sampling problems and development of performance specifications for continuous particulate monitors would entail a major development program. For these reasons, continuous monitoring of

particulate emissions from ammonium sulfate dryers is not required by the proposed standards.

The best indirect method of monitoring proper operation and maintenance of emission control equipment is to continuously monitor the opacity of the exhaust gas. The proposed opacity limit for ammonium sulfate dryers is 15 percent. However, in the case of ammonium sulfate dryers, the character of the exhaust gas when wet scrubbers are used for emission reduction precludes the use of continuous in-stack opacity monitors. Where condensed moisture is present in the exhaust gas stream, in-stack continuous monitoring of opacity is not feasible; water droplets and steam can interfere with operation of the monitoring instrument. Since most affected facilities are likely to use wet scrubbers, continuous monitoring of opacity is not required by the proposed standards.

An alternative to particulate or opacity monitors is the use of a pressure drop monitor as a means of ensuring proper operation and maintenance of emission control equipment. For venturi scrubbers, particulate removal efficiency is related directly to pressure drop across the venturi; the higher the pressure drop, the higher the removal efficiency. For fabric filters, pressure drop is used as an indicator of excessive filter resistance or damaged filter media. Therefore, in order to provide a continuous indicator of emission control equipment operation and maintenance, the proposed standards would require that the owner or operator of any ammonium sulfate manufacturing plant subject to the standards install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the process emission control system. The monitoring device shall have an accuracy of ±5 percent over its operating range.

The proposed standards would also require the owner or operator of any ammonium sulfate manufacturing plant subject to the standards to install, calibrate, maintain, and operate flow monitoring devices necessary to determine the mass flow of ammonium sulfate feed material to the process. The flow monitoring device shall have an accuracy of ±5 percent over its operating range. The ammonium sulfate feed streams are: for synthetic and coke oven by-product ammonium sulfate plants, the sulfuric acid feed stream to the reactor/crystallizer; for caprolactam by-product ammonium sulfate plants, the oximation ammonium sulfate stream to the ammonium sulfate plant and the oleum stream to the caprolactam rearrangement reaction.

Records of pressure drop and calibration measurements would have to be retained for at least 2 years following the date of the measurements by owners and operators subject to this subpart. This requirement is included under § 60.7(d) of the general provisions of 40 CFR Part 60.

Public Hearing

A public hearing will be held to discuss these proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Docket address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (See ADDRESSES section of this preamble.)

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested persons to identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record for judicial review. The docket requirement is discussed in section 307(d) of the Clean Air Act.

Miscellaneous

As prescribed by section 111 of the Act, this proposal of standards has been preceded by the Administrator's determination that emissions from ammonium sulfate manufacturing plants contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (40 CFR 60.16, 44 FR 49222, August 21, 1979). In accordance with section 117 of the Act, publication of these proposed standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

It should be noted that standards of performance for new stationary sources established under section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. (section 111(a)(1))

Although there may be emission control technology available that is capable of reducing emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance because of costs associated with its use. Accordingly, these standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas; i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, section 173 of the Act requires that new or modified sources constructed in an area which exceeds the national ambient air quality standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in section 171(3), for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard (section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources (referred to in section 169(1)) employ "best available control technology" (as defined in section 169(3)) for all pollutants regulated under the Act. "Best available control technology" (BACT) must be determined on a case-by-case basis,

taking energy, environmental, and economic impacts and other cost into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIPs) approved or promulgated under section 110 of the Act must provide for the attainment and maintenance of the national ambient air quality standards (NAAQS) designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possiblility in planning for such facilities.

EPA will review this regulation four years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emission control technology.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under section 11(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Dated: January 28, 1980.

Douglas M. Costle,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart P as follows:

Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture

Sec.

Authority: Sec. 111, 301(a), Clean Air Act as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture

§ 60.420 Applicability and designation of affected facility.

The affected facility to which the provisions of this subpart apply is each ammonium sulfate dryer with an ammonium sulfate manufacturing plant in the caprolactam by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry.

§ 60.421 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

(a) "Ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate.

(b) "Ammonium sulfate dryer" means a unit or vessel in which ammonium sulfate is charged for the purpose of reducing the moisture content of the product using a heating gas stream. The unit includes foundations, superstructure, material charger systems, exhaust systems, and integral control systems and instrumentation.

(c) "Caprolactam by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate as a by-product from process streams generated during caprolactam manufacture.

(d) "Synthetic ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by direct combination of ammonia and sulfuric acid.

(e) "Coke oven by-product ammonium sulfate manufacturing plant" means any plant which produces ammonium sulfate by reacting sulfuric acid with ammonia recovered as a by-product from the manufacture of coke.

(f) "Ammonium sulfate feed material streams" means the sulfuric acid feed stream to the reactor/crystallizer for synthetic and coke oven by-product ammonium sulfate manufacturing plants; and means the oximation ammonium sulfate stream to the ammonium sulfate manufacturing plant and the oleum stream to the caprolactam rearrangement reaction for caprolactam by-product ammonium sulfate manufacturing plants.

§ 60.422 Standards for particulate matter.

On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator of an ammonium sulfate dryer subject to the provisions of this subpart shall cause to be discharged into the atmosphere, from any ammonium sulfate dryer, particulate matter at emission rates exceeding 0.15 kilogram of particulate per megagram of ammonium sulfate produced (0.30 pound of particulate per ton of ammonium sulfate produced) and exhaust gases with opacity of greater than 15 percent opacity.

§ 60.423 Monitoring of operations.

(a) The owner or operator of any ammonium sulfate manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate flow monitoring devices which can be used to determine the mass flow of ammonium sulfate feed material streams to the process. The flow monitoring device shall have an accuracy of ± 5 percent over its range.

(b) The owner or operator of any ammonium sulfate manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring device which continuously measures and permanently records the total pressure drop across the emission control system. The monitoring device shall have an accuracy of ± 5 percent over its operating range.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

§ 60.424 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided in § 60.8(b), shall be used to determine compliance with § 60.422 as follows:

(1) Method 5 for the concentration of particulate matter.

(2) Method 1 for sample and velocity traverses.

(3) Method 2 for velocity and volumetric flow rate.

(4) Method 3 for gas analysis.

(b) For Method 5, the sampling time for each run shall be at least 60 minutes and the volume shall be at least 1.50 dry standard cubic meters (53 dry standard cubic feet).

(c) for each run, the particulate emission rate, E, shall be computed as follows:

$$E = Q_{sd} \times C_s \div 1000$$

(1) E is the particulate emision rate (kg/hr),

(2) Q_{sd} is the average volumetric flow rate (dscm/hr) as determined by Method 2; and

(3) C_s is the average concentration (g/dscm) of particulate matter as determined by Method 5.

(d) For each run, the rate of ammonium sulfate production, P (Mg/hr), shall be determined by direct measurement using product weight scales or computed from a material balance. If production rate is determined by material balance, the following equations shall be used.

(1) For synthetic and coke oven by-product ammonium sulfate plants, the ammonium sulfate production rate shall be determined using the following equation:

$$P = A \times B \times C \times 0.0808$$

where:

P = Ammonium sulfate production rate in megagrams per hour.
A = Sulfuric acid flow rate to the reactor/crystallizer in liters per minute averaged over the time period taken to conduct the run.
B = Acid density (a function of acid strength and temperature) in grams per cubic centimeter.
C = Percent acid strength in decimal form.
0.0808 = Physical constant for conversion of time, volume, and mass units.

(2) For caprolactam by-product ammonium sulfate plants the ammonium sulfate production rate shall be determined using the following equation:

$$P = [D \times E \times F \times (0.8612)] + [G \times H \times I \times (1.1620)]$$

where:

P = Production rate of caprolactam by-product ammonium sulfate in megagrams per hour.
D = Oximation ammonium sulfate process stream flow rate in liters per minute averaged over the time period taken to conduct the run.
E = Density of the process stream solution in grams per liter.
F = Percent ammonium sulfate in the process solution in decimal form.
G = Oleum flow rate to the rearrangement reaction in liters per minute averaged over the time period taken to conduct the run.
H = Density of oleum in grams per liter.
I = Equivalent sulfuric acid percent of the oleum in decimal form.
0.8612 = Physical constant for conversion of time and mass units.
1.1620 = Physical constant for conversion of time and mass units.

(e) For each run, the dryer emission rate shall be computed as follows:

$$R = E/P$$

where:

(1) R is the dryer emission rate (kg/Mg);

(2) E is the particulate emission rate (kg/hr) from (c) above; and

(3) P is the rate of ammonium sulfate production (Mg/hr) from (d) above.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

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federal register

Monday
February 4, 1980

Part V

Department of Energy

Administrative Claims Under Federal Tort Claims Act; Final Rulemaking

DEPARTMENT OF ENERGY

10 CFR Parts 714 and 1014

Administrative Claims Under Federal Tort Claims Act; Final Rulemaking

AGENCY: Department of Energy.

ACTION: Notice of final rulemaking.

SUMMARY: The Department of Energy (DOE) hereby publishes its regulations for processing administrative claims under the Federal Tort Claims Act (FTCA) for all of the Department's constituent organizations (including the Federal Energy Regulatory Commission and the several Power Marketing Administrations).

Part 1014 implements the FTCA, 28 U.S.C. 2672, *et seq.*, and contains the DOE regulations applying to claims under the FTCA for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of DOE while acting within the scope of office or employment.

The Department of Energy Organization Act, Pub. L. 95–91, 42 U.S.C. 7254, 91 Stat. 2754, consolidated in DOE various functions previously performed by several agencies, and provides for continuation of formerly applicable policy and regulations until modified, superseded, or terminated.

This regulation, 10 CFR Part 1014, consolidates into a single regulation the DOE provisions for processing administrative claims under the FTCA.

Authority with respect to claims against the DOE is vested under the regulation in the General Counsel, the Deputy General Counsel, the Deputy General Counsel for Legal Services, the Assistant General Counsel for Legal Counsel, and other employees of the DOE who are from time to time designated by the General Counsel to receive and act on tort claims for the DOE.

EFFECTIVE DATE: March 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Kenneth E. Cohen, Acting Assistant General Counsel for Legal Counsel, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–8618.

Richard E. Benesh, Office of the General Counsel, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–8618.

SUPPLEMENTARY INFORMATION:

A. Background

The DOE published its proposed rule in the **Federal Register** of September 21, 1979, 44 FR 54719. Public comments were invited on or before October 22, 1979. No public comments have been received.

The findings and determinations remain unchanged from those stated in the preamble to the proposed rule.

B. Minor Changes

To eliminate unnecessary restrictions on the delegation powers of the General Counsel and to provide appropriate flexibility in delegated settlement authority, the phrase in § 1014.5, "employees of the Office of the General Counsel," is changed to read, "employees of the Department."

Other minor changes in language have been made under DOE policy for making regulations as simple and clear as possible.

Issued in Washington, D.C. on January 29, 1980.

Lynn R. Coleman,

General Counsel.

PART 714—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT [REDESIGNATED AS PART 1014]

10 CFR Part 714 is redesignated as 10 CFR Part 1014 and revised as set forth below.

PART 1014—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Sec.

Authority: Sec. 1(a), 80 Stat. 306, (28 U.S.C. 2672); 28 CFR Part 14. Sec. 644, Pub. L. 95–91, 91 Stat. 599, (42 U.S.C. 7254).

§ 1014.1 Scope of regulations.

(a) These regulations shall apply only to claims asserted under the Federal Tort Claims Act, as amended, accruing on or after January 18, 1967, for money damages against the United States for injury to, or loss of, property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Department of Energy (DOE) while acting within the scope of office or employment.

(b) The terms "DOE", "Department", and "Department of Energy" as used in this part mean the agency established by the Department of Energy Organization Act (Pub. L. 95–91), 42 U.S.C. 7101, et seq., including the Federal Energy Regulatory Commission, but do not include any contractor of the Department.

(c) The regulations in this part supplement the Attorney General's regulations in Part 14 of Chapter 1 of Title 28, Code of Federal Regulations, as amended. Those regulations, including subsequent amendments thereto, and the regulations in this part apply to the consideration by DOE of administrative claims under the Federal Tort Claims Act.

§1014.2 Administrative claim; when presented; appropriate office.

(a) For purposes of these regulations, a claim shall be deemed to have been presented when DOE receives, at a place designated in paragraph (b) of this section, an executed Standard Form 95 or other written notification of an incident, accompanied by a claim for money damages in a definite amount for injury to or loss of property, personal injury, or death, that is alleged to have occurred by reason of the incident. A claim that should have been presented to DOE but which was mistakenly addressed to or filed with another Federal agency, shall be deemed to be presented to DOE on the date the claim is received by DOE. A claim mistakenly addressed to or filed with DOE shall be transferred to the appropriate Federal agency, if ascertainable, or returned to the claimant.

(b) Claims should be mailed in envelopes marked "Attention Office of General Counsel." Claims shall be mailed or delivered to the DOE installation or office employing the person or persons whose acts or omissions are alleged to have caused the loss, damage, or injury, unless the claimant does not know that address. If the proper address is unknown, claims may be mailed or delivered to: The General Counsel, U.S. Department of Energy, Washington, D.C. 20585. Forms may be obtained from the same places.

(c) A claim may be amended by the claimant at any time before final DOE action or before the exercise of the claimant's option under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or a duly authorized agent or legal representative. If an amendment to a pending claim is filed in time, the DOE shall have 6 months to decide the claim as amended. The claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of an amendment.

§1014.3. Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property interest that is the subject of the claim or the owner's duly authorized agent or legal representative.

(b) A claim for personal injury may be presented by the injured person or the claimant's duly authorized agent or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert such a claim under the applicable State law.

(d) A claim for a loss that was wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss that was partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, it shall present with its claim appropriate evidence that it has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of authority to present a claim on behalf of the claimant.

§ 1014.4 Administrative claims; evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing the cause of death, the date of death, and the age of the decedent.

(2) Decedent's employment or occupation at time of death, including monthly or yearly salary or earnings (if any), and the duration of last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of death.

(4) The degree of support afforded by the decedent to each survivor dependent upon decedent for support at the time of death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physican's detailed statement specifying the injuries suffered, the duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition between injury and death.

(8) Any other evidence or information that may have a bearing on either the responsibility of the United States for the death or the amount of damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by the attending physician or dentist setting forth the nature and extent of the injury, the nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, the period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the DOE or another Federal agency. A copy of the physician's report shall be made available to the claimant upon the claimant's written request, provided that the claimant has, upon request, made or agrees to make available to the DOE any physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of the claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals that future treatment will be needed, a statement of the expected expenses of such treatment.

(4) If a claim is made for loss of time from employment, a written statement from the claimant's employer showing actual time lost from employment, whether the claimant is a full-time or part-time employee, and the wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amounts of earnings actually lost.

(6) Any other evidence or information that may bear on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership of the property interest that is the subject of the claim.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value, where repair is not economical.

(5) Any other evidence or information that may bear on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 1014.5 Authority to adjust, determine, compromise, and settle.

The General Counsel, the Deputy General Counsel, the Deputy General Counsel for Legal Services, the Assistant General Counsel for Legal Counsel, and any employees of the Department designated by the General Counsel to receive and act on tort claims at Headquarters and field locations are authorized to act on claims.

§ 1014.6 Limitation on authority.

(a) An award, compromise, or settlement of a claim in excess of $25,000 shall be made only with the prior written approval of the Attorney General or his or her designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled only after the Department of Justice has been consulted if, in the opinion of the General Counsel or designee:

(1) A new precedent may be involved;

(2) A question of policy may be involved;

(3) The United States may be entitled to indemnity or contribution from a third party and the DOE is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled only after consultation with the Department of Justice when the DOE is aware that the United States or an employee, agent, or cost-type contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

(d) The authority of DOE subordinate claims officials to make awards, compromises, and settlements of over $10,000 is subject to the approval of the General Counsel, the Deputy General Counsel, or the Deputy General Counsel for Legal Services.

§ 1014.7 Referral to Department of Justice.

(a) When Department of Justice approval or consultation is required under § 1014.6, the referral or request shall be transmitted to the Department of Justice by the General Counsel or designee.

(b) When a designee of the General Counsel is processing a claim requiring consultation with, or approval of, either the DOE General Counsel or the Department of Justice, the referral or request shall be sent to the General Counsel in writing and shall contain (1) a short and concise statement of the facts and of the reasons for the referral or request, (2) copies of relevant portions of the claim file, and (3) a statement of recommendations or views.

§ 1014.8 Investigation and examination.

The DOE may investigate, or may request any other Federal agency to investigate, a claim and may conduct, or request another Federal agency to conduct, a physical examination of a claimant and provide a report of the physical examination.

§ 1014.9 Final denial of claim.

(a) Final denial of an administrative claim shall be in writing and sent to the claimant, or the claimant's attorney or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the Department's action, the claimant may file suit in an appropriate U.S. District Court not more than 6 months after the notification is mailed.

(b) Before the commencement of suit and before the 6-month period provided in 28 U.S.C. 2401(b) expires, a claimant, or the claimant's duly authorized agent, or legal representative, may file a written request with the DOE General Counsel for reconsideration of a final denial of a claim. Upon the timely filing of a request for reconsideration the DOE shall have 6 months from the date of filing to decide the claim, and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the request for reconsideration is filed. Final DOE action on a request for reconsideration shall be made in accordance with the provisions of pargarph (a) of this section.

§ 1014.10 Action on approved claims.

(a) Payment of any approved claim shall not be made unless the claimant executes (1) a Standard Form 1145, (2) a claims settlement agreement, or (3) a Standard Form 95, as appropriate consistent with applicable rules of the Department of Justice, Department of the Treasury, and the General Accounting Office. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and the attorney as payees, and the check shall be delivered to the attorney, whose address shall appear on the voucher.

(b) If the claimant or the claimant's agent or legal representative accepts any award, compromise, or settlement made pursuant to the provisions of section 2672 or 2677 of Title 28, United States Code, that acceptance shall be final and conclusive on the claimant, the claimant's agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented. The acceptance shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

§ 1014.11 Penalties.

A person who files a false claim or makes a false or fraudulent statement in a claim against the United States may be liable to a fine of not more than $10,000 or to imprisonment for not more than 5 years, or both (18 U.S.C. 1001), and, in addtion, to a forfeiture of $2,000 and a penalty of double the loss or damage sustained by the United States (31 U.S.C 231).

Effective date: This Part 1014 shall become effective March 1, 1980.

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Federal Register

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Monday, February 4, 1980

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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
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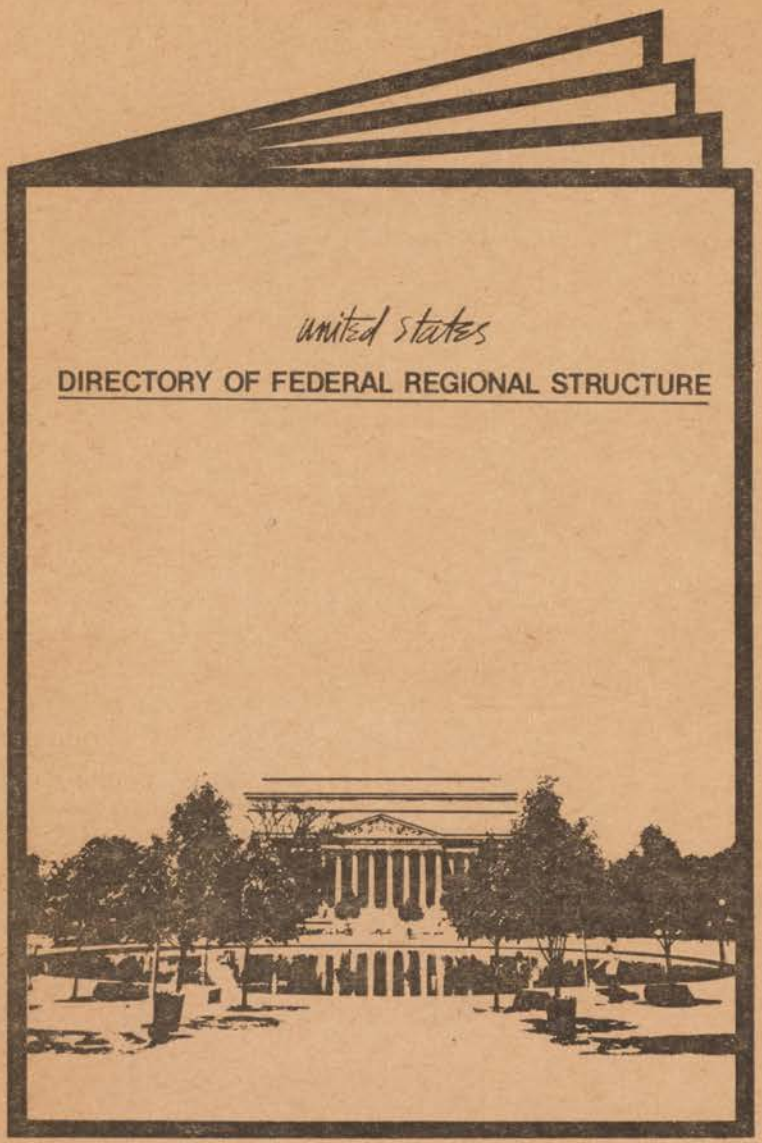

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